

Attachment 2
Public Comments and Agency Response
Wind River/Bighorn Basin District (WR/BBD)
February 2017 Competitive Oil & Gas Lease Sale
DOI-BLM-WY-R000-2016-0002-EA

#	Comment By	Comment	Agency Response
01	WR/BBD	The 30-day public comment period for Version 1 of the Wind River/Bighorn Basin District EA for the February 2017 Competitive Oil and Gas Lease Sale (DOI-BLM-WY-R000-2016-0002-EA) began July 25, 2016, and closed August 24, 2016. The 30-day public comment period is established in Washington Office IM 2010-117 <i>Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews</i> . Comments received after the close of the public comment period will be handled in accordance with BLM’s NEPA Handbook (H-1790-1), which states that the Authorized Officer: “is not required to respond to comments that are not substantive or comments that are received after the close of the comment period, but you may choose to reply.”	
02	WR/BBD	The BLM will provide additional analysis and discussion of climate change impacts in future NEPA documents in consideration of CEQ’s final guidance issued in August 2016. To address this new information, Environmental Assessment DOI-BLM-WY-R000-2016-0002-EA for the BLM-Wyoming February 2017 Competitive Oil & Gas Lease Sale for the Wind River/Bighorn Basin District has been revised to include separate sections for Air Quality (EA at 3.4.3) and Climate Change (EA at 3.4.4).	
03	Wyoming Game and Fish Department (WGFD)	<p>The staff of the Wyoming Game and Fish Department (WGFD) has reviewed the Environmental Assessment for the February 2017 Oil and Gas Lease Parcels. We support the Proposed Action Alternative of the Environmental Assessment.</p> <p>Thank you for the opportunity to comment. If you have any questions or concerns, please contact Rick Huber, Staff Aquatic Biologist, at 307-777-4558.</p> <p>Sincerely, Mary Flanderka, Habitat Protection Supervisor</p>	Thank you for your comments and support.

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		Wyoming Game and Fish Department 5400 Bishop Blvd. Cheyenne, Wyoming 82006 307-777-4600 wgfd.wyo.gov	
04	Center for Biological Diversity, Great Old Broads for Wilderness, and the Sierra Club (CBD)	<p>I am submitting these comments on behalf of the Center for Biological Diversity, Great Old Broads for Wilderness, and the Sierra Club, on the Environmental Assessment (“EA”) for the February 2017 Competitive Lease Sale for the Wind River/Bighorn Basin District.</p> <p>The Center for Biological Diversity is a non-profit environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center also works to reduce greenhouse gas emissions to protect biological diversity, our environment, and public health. The Center has over 1.1 million members and on-line activists, including those living in Wyoming who have visited these public lands in the High Plains District for recreational, scientific, educational, and other pursuits and intend to continue to do so in the future, and are particularly interested in protecting the many native, imperiled, and sensitive species and their habitats that may be affected by the proposed oil and gas leasing.</p> <p>Great Old Broads for Wilderness (Broads) is a national non-profit organization with over 8,000 members and</p>	<p>Thank you for your review and comments.</p> <p>CBD et al.’s letter is addressed to the WR/BBD, but the subject line and two other places in the letter refer to the HPD. The letter also has three other references to the WR/BBD. In all cases, the letter refers to an EA in the singular. CBD et al.’s letter is unclear to which of the two lease sale EAs it is addressing, and the BLM cannot speculate as to which EA CBD et al. finds deficient.</p> <p>Responses will only be directed for comments specific to the Wind River/Bighorn Basin District (WR/BBD) for the February 2017 competitive lease sale EA. <i>As these are two distinct sales, in two distinct districts, with two distinct EA's, responses in this section apply only for the Wind River/Bighorn Basin District February 2017 Competitive Oil and Gas Lease Sale EA.</i> The WR/BBD cannot respond for comments referring to or directed toward the High Plains District EA or area.</p>

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		<p>advocates, working to engage and ignite the activism of elders to preserve and protect wilderness and wild lands. Conceived by older women who love wilderness, Broads gives voice to the millions of older Americans who want to protect their public lands as Wilderness for this and future generations. Broads believes that public lands should be part of the solution to climate change, not part of the problem.</p> <p>The Sierra Club is a national nonprofit organization of approximately 625,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Sierra Club members use the public lands in Wyoming, including the lands and waters that would be affected by the increased oil and gas development proposed under the lease sale, for quiet recreation, aesthetic pursuits, and spiritual renewal.</p>	
05	CBD	<p>For the reasons set forth below, this EA does not satisfy the requirements of NEPA, and the proposed lease sale would therefore violate the National Environmental Policy Act ("NEPA"), the Mineral Leasing Act ("MLA"), the Federal Lands Policy and Management Act ("FLPMA"), and the Endangered Species Act. BLM should produce a full Environmental Impact Statement ("EIS") for the lease sale. In particular, BLM's EA for the proposed lease sale,</p>	<p>The preparation of this leasing EA was done in compliance with all Federal rules, regulations, and laws, including NEPA, MLA, and FLPMA.</p> <p>If the analysis in an EA shows the action would not have a significant effect, a "Finding of No Significant Impact" (FONSI) documents that there is no need for an EIS (40 CFR 1508.13). The WR/BBD RMP EISs have already evaluated potentially</p>

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		<p>fails to comply with NEPA’s obligation to consider indirect and cumulative impacts, including impacts from climate change, fails to meet its obligations to consider foreseeable environmental impacts to greater sage-grouse, including consideration of relevant and readily available scientific information.</p>	<p>significant impacts arising from the BLM’s land use planning decisions. See 43 CFR § 46.140(c), therefore, the BLM anticipates a “finding of no <u>new</u> significant impacts” (FONNSI).</p> <p>All parcels for the February 2017 Competitive Oil and Gas Lease Sale are in compliance with the existing land use plans as required by 43 CFR 1610.5. The EA has adequately analyzed the issues raised by this comment. Site specific NEPA analysis will occur at the development stage that will analyze resource conflicts and identify mitigation for specific impacts, including cumulative impacts, climate change, and sage-grouse.</p>
06	CBD	<p>I. The EA Improperly Limits its Analysis of Reasonably Foreseeable Environmental Impacts</p> <p>NEPA demands that a federal agency prepare an EIS before taking a “‘major [f]ederal action[] significantly affecting the quality’ of the environment.” Kern v. U.S. Bureau of Land Mgmt., 284 F.3d 1062, 1067 (9th Cir. 2002). In order to determine whether a project’s impacts may be “significant,” an agency may first prepare an EA. 40 C.F.R. §§ 1501.4, 1508.9. If the EA reveals that “the agency’s action may have a significant effect upon the . . . environment, an EIS must be prepared.” Nat’l Parks & Conservation Ass’n v. Babbitt, 241 F.3d 722, 730 (9th Cir. 2001) (internal quotations omitted). If the agency determines that no significant impacts are possible, it must still adequately explain its decision by supplying a “convincing statement of reasons” why the action’s effects are insignificant. Blue Mountains Biodiversity Project v.</p>	<p>BLM policy does not require the agency to engage in speculative analysis under NEPA. The BLM 's NEPA Handbook (H- 1790-1, January 2008) at page 59 states: "...you are not required to speculate about future actions. Reasonably foreseeable future actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends."</p> <p>Refer to Powder River Basin Resource Council, 180 IBLA 119, 135 (decided November 2, 2010: "NEPA does not require BLM to hypothesize as to potential environmental impacts that are too speculative for a meaningful determination of material significance or reasonable foreseeability. Such an "analysis" would not serve NEPA's goal of providing high quality information for informed decisionmaking [footnotes and internal citations omitted]."); see also Southern Utah Wilderness Alliance, 159 IBLA 220, 221 (decided June 16, 2003: "The Board may affirm BLM's conclusion that the possible cumulative impact of a</p>

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		<p>Blackwood, 161 F.3d 1208, 1212 (9th Cir. 1998). Further, an agency must prepare all environmental analyses required by NEPA at “the earliest possible time.” 40 C.F.R. § 1501.2. “NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment,” but is “designed to require such analysis as soon as it can reasonably be done.” Kern, 284 F.3d at 1072.</p> <p>BLM has unlawfully restricted its NEPA analysis by arbitrarily limiting the scope of its analysis of oil and gas activity that may result from the lease sale and by failing to analyze sufficiently site- specific impacts. NEPA regulations and caselaw require that BLM evaluate all “reasonably foreseeable” direct and indirect effects of its leasing. 40 C.F.R. § 1508.8; Davis v. Coleman, 521 F.2d 661, 676 (9th Cir. 1975); Center for Biological Diversity v. Bureau of Land Mgmt., 937 F.Supp.2d 1140 (N.D. Cal. March 31, 2013) (holding that oil and gas leases were issued in violation of NEPA where BLM failed to prepare an EIS and unreasonably concluded that the leases would have no significant environmental impact because the agency failed to take into account all reasonably foreseeable development under the leases).</p> <p>BLM, in its Wind River/Bighorn Basin February 2017 Lease Sale EA, arbitrarily refuses to consider sufficiently site-specific impacts. BLM indicates it does not have to consider some, or perhaps all, site-specific impacts</p>	<p>future action need not be considered significant when the reasonably foreseeable future action is speculative.”).</p> <p>In accordance with H-1624-1 – Planning for Fluid Mineral Resources Rel. 1-1749, 1/28/2013: The Federal Government retains certain rights when issuing an oil and gas lease. While the BLM may not unilaterally add a new stipulation to an existing lease that it has already issued, the BLM can subject development of existing leases to reasonable conditions, as necessary, through the application of Conditions of Approval at the time of permitting. The new constraints must be consistent with the applicable land use plan and not in conflict with rights granted to the holder under the lease. The Interior Board of Land Appeals has made clear that, when making a decision regarding discrete surface-disturbing oil and gas development activities following site-specific environmental review, the BLM has the authority to impose reasonable protective measures not otherwise provided for in lease stipulations, to minimize adverse impacts on other resource values. See 30 U.S.C. §226(g); 43 CFR 3101.1-2. See Yates Petroleum Corp., 176 IBLA 144 (2008); National Wildlife Federation, 169 IBLA 146, 164 (2006).</p>

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		<p>because the exact extent of those impacts is unknown at this stage and subject to regulation at a later date. BLM asserts that, “The level of development that might occur as an outcome leasing is unknown. A more precise description of environmental effects would be possible if the exact level of development were known. The BLM determined that any estimation of development at this time is too speculative to be analyzed as part of this EA.” BLM’s interpretation of the Tenth Circuit’s NEPA law is plainly erroneous, as the Tenth Circuit has repeatedly clarified in later cases. See <i>Pennaco Energy, Inc. v. U.S. Dep’t of Interior</i>, 377 F.3d 1147, 1160 (10th Cir. 2004) (requiring analysis of coalbed methane development impacts at the oil and gas leasing stage). The Tenth Circuit in <i>New Mexico ex rel. Richardson v. BLM</i>, 565 F.3d 683 (10th Cir. 2009), explained in detail the extent of BLM’s obligations at the leasing stage:</p> <p>Taken together, [Park County and Pennaco Energy] establish that there is no bright line rule that site-specific analysis may wait until the APD stage. Instead, the inquiry is necessarily contextual. Looking to the standards set out by regulation and by statute, assessment of all "reasonably foreseeable" impacts must occur at the earliest practicable point, and must take place before an "irretrievable commitment of resources" is made. 42 U.S.C. § 4332(2)(C)(v); <i>Pennaco Energy</i>, 377 F.3d at 1160; <i>Kern</i>, 284 F.3d at 1072; 40 C.F.R. §§ 1501.2, 1502.22. Each of these inquiries is tied to the existing environmental circumstances, not to the formalities of agency procedures.</p>	

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		<p>Thus, applying them necessarily requires a fact-specific inquiry.</p> <p>The proposed lease sale would result in impacts that BLM will not be able to avoid once the lease sale is finalized because the agency’s ability to prevent lessees from engaging in lawful activities on issued leases will be limited. BLM regulations provide that lessees “have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold subject to” limited conditions, including lease stipulations, “specific, nondiscretionary statutes,” and limited “reasonable measures” that do not preclude all development activities. 43 C.F.R. § 3101.1-2. Under Pennaco Energy and New Mexico v. BLM, BLM cannot simply assert that site-specific analysis may wait until the APD stage, but most consider whether non-“no surface occupancy” leases constitute an irretrievable commitment of resources, and whether development impacts are reasonably foreseeable, in the context of known fuel supply, industry plans, and existing and ongoing development.</p> <p>NEPA requires that an agency conduct all environmental analyses at “the earliest possible time.” 40 C.F.R. § 1501.2; see also New Mexico, 565 F.3d at 718. Here, this means that BLM must analyze all site-specific impacts now, before it has leased the land and is unable to prevent environmental impacts.</p>	

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07	CBD	<p>II. The EA Fails to Disclose Impacts to Climate Change from Oil and Gas Leasing</p> <p>The Center, Great Old Broads, the Sierra Club, and others, have repeatedly requested that the BLM address the greenhouse gas emission consequences, including both the direct emissions (combustion and leakage) from the extraction process and the reasonable foreseeable emissions of transport, processing, and combustion of oil and gas. The EA, however, continues to rely decline to engage in meaningful cumulative quantification or assessment of greenhouse gas consequences from its oil and gas leasing operations, based on rationales that have been conclusively rejected in final guidance from the Council on Environmental Quality, NEPA's implementing body.</p> <p>A. BLM Has Failed to Analyze Adequately the Project's Climate Change Impacts</p> <p>NEPA's environmental analysis requirement includes consideration of climate change. See <i>Center v. NHTSA</i>, 538 F.3d at 12-1216-17. Oil and gas operations are a major contributing factor to climate change, due both to emissions from the operations themselves and emissions from the combustion of the oil and gas produced. BLM's continued refusal to address the life-cycle greenhouse gas</p>	<p>Responses will only be directed for comments specific to the Wind River/Bighorn Basin District (WR/BBD) for the February 2017 competitive lease sale EA. <i>As these are two distinct sales, in two distinct districts, with two distinct EA's, responses in this section apply only for the Wind River/Bighorn Basin District February 2017 Competitive Oil and Gas Lease Sale EA.</i> The WR/BBD cannot respond for comments referring to or directed toward the High Plains District EA or area.</p> <p>The EA appropriately discloses: There are no direct impacts to air quality or climate change through the administrative action of leasing. Indirect effects from leasing may occur to air quality or climate change if development were to occur. At the time of a site-specific application, such as an APD, air quality or climate change will be evaluated to conform with the State of Wyoming Department of Environmental Quality (WYDEQ) air quality standards. As new information is gathered, it will be incorporated into BLM decisions and may require conditions of approval to mitigate adverse impacts to air quality or climate change.</p> <p>Furthermore, there is substantial uncertainty that exists at the time the BLM offers a lease for sale regarding crucial factors that will affect potential greenhouse gas emissions, including: well density; geological conditions; development type (vertical, directional, horizontal); hydrocarbon characteristics; equipment to be used during construction, drilling, production, and</p>

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		<p>(GHG) emissions of fossil fuel production, transport, processing, and combustion from public lands is contrary to NEPA, and squarely contrary to the Council on Environmental Quality's recently finalized Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews.</p> <p>The final CEQ Guidance on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Review is dispositive on the issue of federal agency review of greenhouse gas emissions as foreseeable direct and indirect effects of the proposed action. 81 Fed. Reg. 51,866 (Aug. 5, 2016). NEPA requires BLM to use available tools to evaluate environmental impacts. 40 C.F.R.</p> <p>§ 1502.22(a). The CEQ guidance provides clear direction for BLM to conduct a lifecycle greenhouse gas analysis because the modeling and tools to conduct this type of analysis are readily available to the agency:</p> <p>If the direct and indirect GHG emissions can be quantified based on available information, including reasonable projections and assumptions, agencies should consider and disclose the reasonably foreseeable direct and indirect emissions when analyzing the direct and indirect effects of the proposed action. Agencies should disclose the information and any assumptions used in the analysis and explain any uncertainties.</p>	<p>abandonment operations; and potential regulatory changes pertaining to greenhouse gases over the life of the 10-year primary lease term. However, the BLM will have a point in time when such information is much less speculative and certain when actual operations are proposed on an issued lease through an Application for Permit to Drill (APD) or Sundry Notice (SN). That is the appropriate point in time to estimate greenhouse gas emissions, if necessary and appropriate.</p> <p>GIS data as of April 2014, indicate that almost two-thirds (64%) of Federal oil and gas leases in Wyoming do not have any active wells located within their boundaries. This raises serious questions about the assumptions that all leases are eventually fully developed for purposes of estimating greenhouse gas emissions at the leasing stage.</p> <p>In 2011, the BLM circulated internal draft guidance to its offices entitled "Integrating Climate Change into the NEPA Process" (BLM's 2011 Draft Guidance). On April 3, 2015, the BLM-Washington Office sent an e-mail notifying the BLM's leadership and management teams that the BLM's 2011 Draft Guidance document "remains in effect."</p> <p>Acknowledging the "unique challenges" posed by addressing GHG and climate change in NEPA documents, the BLM's 2011 Draft Guidance provided draft, interim direction to the BLM that the agency has used until further guidance can be finalized.</p> <p>The BLM will provide additional analysis and discussion of</p>

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		<p>To compare a project’s estimated direct and indirect emissions with GHG emissions from the no-action alternative, agencies should draw on existing, timely, objective, and authoritative analyses, such as those by the Energy Information Administration, the Federal Energy Management Program, or Office of Fossil Energy of the Department of Energy. In the absence of such analyses, agencies should use other available information.</p> <p>CEQ NEPA Guidance at 16 (citations omitted).</p> <p>CEQ’s guidance even provides an example of where a lifecycle analysis is appropriate in a leasing context at footnote 42:</p> <p>The indirect effects of such an action that are reasonably foreseeable at the time would vary with the circumstances of the proposed action. For actions such as a Federal lease sale of coal for energy production, the impacts associated with the end-use of the fossil fuel being extracted would be the reasonably foreseeable combustion of that coal. Id.</p> <p>The number of future wells and volume of potential oil and gas from these lease parcels are knowable and calculating the direct emissions impact from these lease parcels are also quantifiable.</p>	<p>climate change impacts in future NEPA documents in compliance with CEQs final guidance issued in August 2016. Per the final CEQ regulations, agencies are afforded discretion as to when to include an appropriate GHG and climate change analysis:</p> <p><i>“Recommends that agencies select the appropriate level of action for NEPA review at which to assess the effects of GHG emissions and climate change, either at a broad programmatic level (e.g. landscape-scale) or at a project- or site-specific level, and then set forth a reasoned explanation for their approach”</i></p> <p>Since a leasing EA or EIS does not propose a plan of development nor authorize any emission generating activities to occur, the BLM appropriately analyzes air quality impacts and climate change impacts through a quantitative analysis at the time a site-specific plan of development is submitted for consideration. Any analysis completed prior to this is purely speculative and not likely to represent the impacts that would occur based on analysis of a site-specific development proposal.</p>

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		<p>Natural gas emissions are generally about 84 percent methane. Methane is a potent greenhouse gas that contributes substantially to global climate change. Its global warming potential is approximately 33 times that of carbon dioxide over a 100 year time frame and 105 times that of carbon dioxide over a 20 year time frame.</p> <p>Oil and gas operations release large amounts of methane. While the exact amount is not clear, EPA has estimated that “oil and gas systems are the largest human-made source of methane emissions and account for 37 percent of methane emissions in the United States or 3.8 percent of the total greenhouse gas emissions in the United States.” For natural gas operations, production generates the largest amount; however, these emissions occur in all sectors of the natural gas industry, from drilling and production, to processing, transmission, and distribution. Fracked wells leak an especially large amount of methane, with some evidence indicating that the leakage rate is so high that shale gas is worse for the climate than coal. In fact, a research team associated with the National Oceanic and Atmospheric Administration recently reported that preliminary results from a field study in the Uinta Basin of Utah suggest that the field leaked methane at an eye-popping rate of nine percent of total production.</p> <p>For the oil industry, emissions result “primarily from field production operations . . . , oil storage tanks, and production-related equipment ” Emissions are released as</p>	

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		<p>planned, during normal operations and unexpectedly due to leaks and system upsets. Significant sources of emissions include well venting and flaring, pneumatic devices, dehydrators and pumps, and compressors.</p> <p>Contrary to CEQ's guidance, the EA improperly declines to analyze the contribution to climate change of additional Wyoming federal oil and gas leasing, instead disclaiming ability to evaluate those impacts by stating only Several activities that occur in the area contribute to climate change, including: large wildfires, activities using combustion engines, changes to the natural carbon cycle, changes to radioactive forces and reflectivity, and emissions of greenhouse gases (GHGs). GHGs, including CO₂, as well as, methane (CH₄), nitrous oxide (N₂O), and fluorinated gases, are created and emitted through human activities, including oil and gas development, and agricultural activities. Without additional meteorological monitoring systems, it is difficult to determine spatial and temporal variability and change of climatic conditions, but increasing concentrations of GHGs are likely to accelerate the rate of climate change.</p> <p>EA at 3-9.</p> <p>The very purpose of oil and gas leasing is the production, and subsequent combustion, of hydrocarbon fossil fuels. It is simply not credible to assert in 2016 that BLM has no</p>	

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		<p>way of estimating a range of possible production levels for leases within established industry plays and currently producing geological formations. Although there are certainly geological, technological, and economic uncertainties that could affect the production from the leases in question, these uncertainties do not relieve BLM of the obligation to analyze and disclose, at the very least, a range of possible production scenarios and their resulting emissions. In its recent NEPA guidance, CEQ directs agencies, at a minimum, to “use projected GHG emissions as a proxy for assessing potential climate change effects when preparing a NEPA analysis for a proposed agency action.” 81 Fed. Reg. 51,866, 51,866 (Aug. 5, 2016). BLM has failed to meet even this low bar in its climate analysis.</p> <p>Further, BLM’s analysis is lacking because the agency failed to identify numerous available methods for controlling air pollution emissions. This total failure violates NEPA’s requirement that the agency identify mitigation measures, 40 C.F.R. § 1508.25, and consider all reasonable alternatives. Center for Biological Diversity v. Nat’l Highway Traffic Safety Admin., 538 F.3d 1172, 1217 (9th Cir. 2008) (citing 40 C.F.R. § 1502.14(a)).</p>	
08	CBD	<p>III. The EA Fails to Acknowledge Scientific Information Regarding Conservation of Greater Sage-Grouse</p> <p>Wyoming supports 35-40% of the entire population of</p>	<p>All parcels brought forward in the February 2017 lease sale are located within the Lander Field Office, with two overlapping into the Rawlins Field Office. Of the ten parcels brought forward, five are located in total or in part in one of the three Lander</p>

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09	CBD	<p>A. BLM’s Proposed Alternative Does Not Conform with BLM Wyoming’s Sage-Grouse Conservation Strategy</p> <p>Even under the BLM’s own determinations, the proposed action is directly in conflict with a core provision of the 2015 sage-grouse RMP amendments. All the Rocky Mountain Region RMPs are subject to the following measure for both priority and general habitat management areas:</p> <p>Prioritization Objective—In addition to allocations that</p>	<p>All parcels brought forward in the February 2017 lease sale are located within the Lander Field Office, with two overlapping into the Rawlins Field Office. Of the ten parcels brought forward, five are located in total or in part in one of the three Lander Designated Development Areas: “The Approved RMP designates three Designated Development Areas for development incorporating almost all lands with moderate to high oil and gas potential.Potential for future mineral development is primarily limited to lands in the Designated Development Areas which do not conflict with important cultural resources, viewshed, or greater sage-grouse habitat.”</p>

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		<p>limit disturbance in PHMAs and GHMAs, the ARMPs and ARMPAs prioritize oil and gas leasing and development outside of identified PHMAs and GHMAs. This is to further limit future surface disturbance and encourage new development in areas that would not conflict with GRSG. This objective is intended to guide development to lower conflict areas and as such protect important habitat and reduce the time and cost associated with oil and gas leasing development by avoiding sensitive areas, reducing the complexity of environmental review and analysis of potential impacts on sensitive species, and decreasing the need for compensatory mitigation.</p> <p>The EA explicitly acknowledges that its greater sage-grouse conservation plans and strategy “direct the BLM to prioritize oil and gas leasing and development in a manner that minimizes resource conflicts in order to protect important habitat and reduce development time and costs.” EA at 1-3 to 1-4. The EA fails to explain the rationale for deferring three parcels containing priority and/or general habitat management areas but including ten parcels that fall completely within sage-grouse PHMA or GHMA.</p> <p>The BLM is subject to clear direction in the RMP amendments that its greater sage-grouse RMP plans and conservation strategy rely not only on stipulations within designated habitats (stipulations acknowledged as insufficient, in Wyoming, to result in a net conservation gain for general habitat, see 2015 RMPA ROD at 1-30 to</p>	<p>The Lander RMP incorporated the Core Area strategy for Greater Sage-Grouse conservation. Appropriate stipulations are applied including seasonal limitations protecting breeding and nesting areas and other prescriptions within Core Area. Outside of Designated Development Areas, these seasonal limitations are applied to operations and maintenance activities as well as drilling. Additionally, Required Design Features and best management practices are applied to limit the adverse impacts of oil and gas development on Greater Sage-Grouse.</p> <p>Of the ten parcels brought forward, approximately 3.58% of the acreage is within areas designated as Core Areas, while 96.42% is designated as Non-Core habitat.</p> <p>The portions of the two parcels which overlap into the Rawlins Field Office were reviewed and analyzed by the High Dessert District, and stipulations applied. The mineral estate for the parcels was designated through the RMPs as being open to oil and gas leasing with appropriate stipulations to be applied. The FEIS for each Field Office analyzed the impacts of oil and gas development on lands open to leasing including impacts to other resource values, including sage-grouse habitat.</p>

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		<p>1-31, but also on a larger strategy of prioritizing development outside of all sage-grouse habitats. Despite its acknowledgement of the prioritization requirement by deferring three parcels, however, the BLM’s proposed action would consist entirely of general and priority habitat. It is simply impossible to understand how offering leases all within sage-grouse habitat is consistent with the RMP requirement to prioritize leasing outside such habitat, and the EA provides no rationale for this decision.</p> <p>An apparent BLM policy of leasing parcels all within sage-grouse habitat is not only inconsistent with the RMPs and FLPMA’s consistency requirement, it also undermines a fundamental assumption of the RMP Amendment EISs – as well as the U.S. Fish and Wildlife Service’s determination that listing the greater sage-grouse under the Endangered Species Act was “not warranted.” That assumption is that the measures adopted in the RMP Amendments will result in oil and gas development tending to occur outside of greater sage-grouse habitat. Proposing a lease sale for ten parcels containing sage-grouse habitat (including one that contains “Priority Habitat Management Area”) shortly following the finalization of the sage-grouse RMPs strongly undermines that assumption. It further undermines the assumption in the Fish and Wildlife Service’s “not warranted” finding for the greater sage-grouse that federal and state implementation of the “Wyoming Plan” for fluid minerals will continue the 2012-15 trend of reduced drilling within</p>	

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		core areas. If BLM is not actually going to give meaningful content to its plan direction to prioritize leasing outside of sage-grouse habitats, it cannot rely on FEISs, such as the Wyoming Sage Grouse RMP FEIS, that assume the effectiveness of that plan direction.	
10	CBD	<p>B. The BLM Fails to Consider Reasonable Alternatives Prioritizing Leasing Outside of All Designated Sage-Grouse Habitat</p> <p>The “heart” of NEPA is an agency’s obligation, in evaluating the environmental impacts of its actions, whether by EA or EIS, to consider all reasonable alternatives to those actions. See Center. for Biological Diversity v. Nat’l Highway Traffic Safety Admin., 538 F.3d 1172, 1217 (9th Cir. 2008) (citing 40 C.F.R. § 1502.14(a)). The High Plains District February 2017 leasing EA fails to meet this core NEPA obligation by arbitrarily excluding from consideration any alternative that could meaningfully preserve BLM Wyoming offices’ authority to adopt effective and scientifically credible conservation measures for greater sage-grouse.</p> <p>The Wind River/Bighorn Basin District February 2017 leasing EA considers only the no-action and proposed alternatives. The EA does not even consider an alternative, regularly considered and adopted by other field offices, would defer all remaining parcels located within sage grouse “Priority Habitat Management Areas” and</p>	<p>Responses will only be directed for comments specific to the Wind River/Bighorn Basin District (WR/BBD) for the February 2017 competitive lease sale EA. <i>As these are two distinct sales, in two distinct districts, with two distinct EA's, responses in this section apply only for the Wind River/Bighorn Basin District February 2017 Competitive Oil and Gas Lease Sale EA.</i> The WR/BBD cannot respond for comments referring to or directed toward the High Plains District EA or area.</p> <p>The BLM continues to assert that the impacts from an alternative that would consider not leasing in core is imbedded within the No Action alternative and its impacts are within the scope of the analysis. This comment provides no information which would change this determination.</p>

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		<p>”General Habitat Management Areas,” at least until such time as BLM completes a strategy for the implementation of the sage-grouse RMP amendments. We request that BLM give consideration to such a habitat prioritization alternative.</p> <p>Agencies may not reject an otherwise reasonable alternative out of hand simply because it shares some characteristics with the no-action alternative. See Colorado Environmental Coalition v. Salazar, 875 F. Supp.2d 1233, 1248-50 (D. Colo. 2012). Such an alternative would be consistent with BLM Instruction Memorandum IM WY-2012-019 at 8, which states:</p> <p>This policy does not preclude the development and immediate implementation of new, or innovative mitigation, or other conservation measures that would be expected to reduce activity/project impacts to sage-grouse and their habitats.</p>	
11	CBD	<p>IV. Conclusion</p> <p>Due to the deficiencies documented in these comments, the Center requests:</p> <p>1. That a Finding of No Significant Impact not be issued, and that the BLM initiate the process for preparing an environmental impact statement prior to authorizing any further leasing.</p>	Thank you for your comments and interest.

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		<p>2. That the BLM defer all future sales within greater sage-grouse habitat until at least such time as it issues final implementation guidance for the sage-grouse RMP amendments, including the requirement to prioritize leasing outside of Priority and General Habitat Management Areas.</p> <p>3. That any further consideration of potential leasing within greater sage-grouse habitat consider not only leasing, but also deferral and or withdrawal, under FLPMA § 204, of said habitat from further leasing, consistent with the best available science regarding greater sage-grouse conservation.</p> <p>Thank you for consideration of these comments. The Center looks forward to reviewing a legally adequate EIS for this proposed oil and gas leasing action. Sincerely,</p> <p>/s/ Michael A. Saul, Senior Attorney, Center for Biological Diversity 1536 Wynkoop Street, Suite 421 Denver CO 80202 Tel. (303) 915-8308, email msaul@biologicaldiversity.org</p> <p>Shelley Silbert, Executive Director Great Old Broads for Wilderness Box 2924 Durango, CO 81302</p>	

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		Office: (970) 385-9577 Cell: (928) 600-6754 Katie Schaefer Associate Attorney Sierra Club 2101 Webster St., Suite 1300 Oakland, CA 94612	
12	Letter #1 from WildEarth Guardians (WEG)	The following are the lands and wildlife comments of WildEarth Guardians on the Wyoming BLM's February 2017 Lease Sale EAs for the High Plains District and Wind River – Bighorn Basin (“WRBB”) District. Guardians will be submitting separate comments on these EAs on the subjects of climate change, the social costs of carbon, and air quality. For many years, the BLM has prioritized oil and gas leasing and development over other multiple uses such as wildlife, watersheds, and public recreation. It is time for the BLM to restore some balance among resource uses in Wyoming, and render extractive industries more compatible with maintaining healthy ecosystems and public enjoyment of the land. Generally speaking, we would support a modified version of the BLM Preferred Alternatives adjusted to address our concerns, but in this case the problems with this proposed lease sale and its NEPA analysis are so pervasive that we recommend scrapping the entire effort and adopting the respective Alternatives A, the No Action alternatives.	Comments from WildEarth Guardians (WEG) regarding the February 2017 Competitive Oil and Gas Lease Parcels EA were submitted as a combined document for both the Wind River/Bighorn Basin District (WR/BBD) and the High Plains District (HPD). <i>As these are two distinct sales, in two distinct districts, with two distinct EA's, responses in this section apply only for the Wind River/Bighorn Basin District February 2017 Competitive Oil and Gas Lease Sale EA.</i>
13	WEG	We are confused about references in the WRBB EA to RFO parcels (see, e.g., WRBB EA at 1- 4). It does not appear that any nominated parcels in the Rawlins Field	Referencing the EA on page 1-2: Two parcels, WY-1702-315 and WY-1702-316, contain portions that overlap the boundary between the Lander Field Office and

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		Office are included in this proposed lease auction. Please clarify this point.	the Rawlins Field Office (RFO). To clarify, the jurisdictional boundary between the two field offices is irregular due to the boundary following distinct topographic features or man-made features such as Wyoming Highway 220. Lease parcels are described by aliquot parts, which may cross field office boundaries.
14	WEG	BLM attaches a number of stipulations, most notably timing, Controlled Surface Use, and No Surface Occupancy stipulations, and relies upon them to reduce impacts to sensitive wildlife resources without ever analyzing the effectiveness of these stipulations. Many of these stipulations are known to be ineffective as outlined below. We concur with the intention to defer parcels entirely or in part based on the sage grouse screen, at the discretion of the State Director, totaling 61,923 acres in the High Plains District (High Plains EA at 4) and three parcels in the WRBB EA.	No comment necessary.
15	WEG	Sage Grouse We remain concerned that sage grouse stipulations prescribed in BLM land-use plan amendments and revisions to protect greater sage grouse are scientifically unsound, legally invalid, and fail to grant an adequate level of protection to allow for the survival of greater sage grouse in the context of development on oil and gas leases, and therefore protest these parcels. Under BLM's	As stated previously, comments from WildEarth Guardians (WEG) regarding the February 2017 Competitive Oil and Gas Lease Parcels EA were submitted as a combined document for both the Wind River/Bighorn Basin District (WR/BBD) and the High Plains District (HPD). <i>As these are two distinct sales, in two distinct districts, with two distinct EA's, responses in this section apply only for the Wind River/Bighorn Basin District February 2017 Competitive Oil and Gas Lease Sale EA.</i>

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		<p>greater sage grouse plan amendments and revisions, the agency made an explicit commitment to prioritize oil and gas leasing and development outside PHMAs (which include SFAs) and GHMAs. Particularly relevant to this lease sale:</p> <p>“Priority will be given to leasing and development of fluid mineral resources, including geothermal, outside of PHMAs and GHMAs. When analyzing leasing and authorizing development of fluid mineral resources, including geothermal, in PHMAs and GHMAs, and subject to applicable stipulations for the conservation of GRSG, priority will be given to development in non-habitat areas first and then in the least suitable habitat for GRSG.” Casper, Kemmerer, Newcastle, Pinedale, Rawlins, and Rock Springs Field Offices Approved RMP Amendment for Greater Sage-Grouse at 24.</p> <p>“MR:2.3 Priority will be given to leasing and development of fluid mineral resources, including geothermal, outside of PHMA and GHMA. When analyzing leasing and authorizing development of fluid mineral resources, including geothermal, in PHMA and GHMA, and subject to applicable stipulations for the conservation of Greater Sage-Grouse, priority will be given to development in non-habitat areas first and then in the least suitable habitat for Greater Sage- Grouse.” Worland Field Office Approved RMP at 29.</p>	<p>All parcels in the WR/BBD brought forward in the February 2017 lease sale are located within the Lander Field Office, with two overlapping into the Rawlins Field Office. Of the ten parcels brought forward, five are located in total or in part in one of the three Lander Designated Development Areas: “The Approved RMP designates three Designated Development Areas for development incorporating almost all lands with moderate to high oil and gas potential.Potential for future mineral development is primarily limited to lands in the Designated Development Areas which do not conflict with important cultural resources, viewshed, or greater sage-grouse habitat.”</p> <p>The Lander RMP incorporated the Core Area strategy for Greater Sage-Grouse conservation. Appropriate stipulations are applied including seasonal limitations protecting breeding and nesting areas and other prescriptions within Core Area. Outside of Designated Development Areas, these seasonal limitations are applied to operations and maintenance activities as well as drilling. Additionally, Required Design Features and best management practices are applied to limit the adverse impacts of oil and gas development on Greater Sage-Grouse.</p> <p>Of the ten parcels brought forward, approximately 3.58% of the acreage is within areas designated as Core Areas, while 96.42% is designated as Non-Core habitat.</p> <p>The portions of the two parcels which overlap into the Rawlins Field Office were reviewed and analyzed by the High Desert</p>

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		<p>“Priority will be given to leasing and development of fluid mineral resources, including geothermal, outside of Greater Sage-Grouse habitat. When analyzing leasing and authorizing development of fluid mineral resources, including geothermal, in priority habitat (core population areas and core population connectivity corridors) and general habitat, and subject to applicable stipulations for the conservation of Greater Sage-Grouse, priority will be given to development in non-habitat areas first and then in the least suitable habitat for Greater Sage-Grouse.” Buffalo Field Office Approved RMP at 90.</p> <p>To comply with this direction, BLM should require leaseholders to diligently explore for and develop all existing fluid mineral leases, prioritizing those outside sage grouse habitats, before any new leases are offered at auction inside designated sage grouse habitats. Thus, all sage-grouse parcels in both Core Area and General Habitat Management Area (“GHMA”) in this lease sale should be removed from the auction.</p> <p>Parcels WY-1702-004, 005, 007 through 011, 013 through 024, 029 through 034, 036, 037, 044 through 048, 052, 060, 061, 261 through 265, 282 through 285, 288 through 301, 303, 304, 306, 307, 315, and 316 are completely or partially within sage grouse Core Areas. ‘No leasing in Core Areas’ is one reasonable alternative. National Technical Team recommendations must be analyzed in detail as an alternative, and leasing Core Area</p>	<p>District, and stipulations applied. The mineral estate for the parcels was designated through the RMPs as being open to oil and gas leasing with appropriate stipulations to be applied. The FEIS for each Field Office analyzed the impacts of oil and gas development on lands open to leasing including impacts to other resource values, including sage-grouse habitat.</p> <p>Oil and gas stipulations are developed through the Resource Management Plan EIS process, including allocation decisions, in accordance with FLPMA. Changes to allocation decisions (or lease stipulations) require a planning amendment or maintenance action. Subsequently, all implementation decisions must be in conformance with the approved RMP.</p> <p>Point of clarification on your comment regarding WR/BBD Parcels WY-1702-317, WY-1702-327, and WY-1702-328: After careful review of the parcels, the BLM has determined that it was appropriate to defer three parcels nominated for inclusion in the February 2017 oil and gas lease sale (parcels -317, -327, and -328, comprised of 1,038.84 acres). These deferrals were made consistent with the BLM's sage-grouse conservation plans and strategy, which direct the BLM to prioritize oil and gas leasing and development in a manner that minimizes resource conflicts in order to protect important habitat and reduce development time and costs. (EA Page 1-3)</p> <p>The BLM continues to assert that the impacts from an alternative that would consider not leasing in core is imbedded within the No Action alternative and its impacts are within the scope of the</p>

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		<p>lands regardless of what screening mechanisms they have been subjected to will violate CEQ guidance and the RMP direction to prioritize leasing and development outside Core Areas and GHMAs. Please note that the National Technical Team did not recommend screening parcels inside Core Areas for at least 11 square miles of unleased federal mineral estate before closing federal lands to future leasing.</p> <p>We agree with BLM's recommendations to defer in whole or in part the offering of Parcels 4, 5, 9, 10, 10, 11, 12, 15, 16, 17, 22, 23, 30, 31, 32, 33, 34, 36, 48, 60, 62, 267, 268, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 285, 286, 287, 293, 294, 295, 297, 299, 300, 301, 302, 303, 304, 306, 317, 327, and 328, which fall entirely or partially within Core Areas. It is a wise decision to defer the long-term commitment of mineral leases in areas that are sensitive sage grouse habitats. This is consistent with the Presidential Memorandum of November 6, 2015 titled "Mitigating Impacts on Natural Resources From Development and Encouraging Related Private Investment," which directs federal agencies "to avoid and then minimize harmful effects to land, water, wildlife, and other ecological resources (natural resources) caused by land- or water- disturbing activities..." 80 Fed. Reg. 68743, 68744. This Presidential Memorandum also directs agencies to identify areas "where natural resource values are irreplaceable;" sage grouse habitats clearly fall into this</p>	<p>analysis. This comment provides no information which would change this determination.</p>

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		<p>category, as there is no demonstrated possibility of creating or restoring sage grouse habitats once they have been destroyed due to the fragility and long recovery times of the sagebrush habitats upon which the grouse depend.</p> <p>Parcels 7, 8, 13, 14, 18, 19, 20, 21, 24, 29, 37, 44, 45, 46, 47, 52, 61, 261, 262, 263, 264, 265, 282, 283, 284, 288, 289, 290, 291, 292, 296, 296, 298, 307, 315, 316, 320, 327, and 328 fall entirely or partially within Core Areas based on our leasing screens, yet are not earmarked for even partial deferral. Regardless of whether these parcels are within 11 square miles of contiguous unleased federal estate or not, BLM should defer leasing on these parcels as well in conformance with direction in the Wyoming Approved Greater Sage-grouse Resource Management Plan Amendment and related plan revisions establishing enhanced protections for sage grouse habitats. For this reason, these parcels should be deferred as well.</p> <p>We request that all parcels listed above be deferred from the lease sale. BLM should do its best to keep largely unleased areas of public land in designated sage grouse habitats unleased, regardless of mineral ownership patterns. Since 1965, grouse populations have declined significantly, and these declines continue in recent years, with the risk of sage grouse extirpation a sizeable threat over large portions of the species' range. These declines are attributable at least in part to habitat loss due to</p>	

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		<p>mining and energy development and associated roads, and to habitat fragmentation due to roads and well fields. Oil and gas development poses perhaps the greatest threat to sage grouse viability in the region. The area within 5.3 miles of a sage grouse lek is crucial to both the breeding activities and nesting success of local sage grouse populations. In a study near Pinedale, Wyoming, sage grouse from disturbed leks where gas development occurred within 3 km of the lek site showed lower nesting rates (and hence lower reproduction), traveled farther to nest, and selected greater shrub cover than grouse from undisturbed leks. According to this study, impacts of oil and gas development to sage grouse include (1) direct habitat loss from new construction, (2) increased human activity and pumping noise causing displacement, (3) increased legal and illegal harvest, (4) direct mortality associated with reserve pits, and (5) lowered water tables resulting in herbaceous vegetation loss. These impacts have not been thoroughly evaluated with full NEPA analysis.</p> <p>In addition, Parcels 27, 29, 27 through 40, 52 through 59, 61, 75 through 78, 85, 89, 90, 93, 94, 97, 98, 117 through 119, 147, 149 through 152, 154, 165, 166, 168, 169, 182, 190 through 199, 201 through 203, 205 through 208, 210 through 213, 215 through 218, 224 through 226, and 252 are outside designated Core Areas yet are in habitats of extreme high value as sage grouse habitat, and appear to be within General Habitat Management Area (GHMA)</p>	

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		<p>lands. In the Lander Field Office, 12,469.76 acres of GHMA across 10 unidentified parcels are included in the lease sale. WRBB EA at 3-21. These GHMA parcels should be deferred as well.</p> <p>BLM chose not to consider deferring all parcels that fall within sage grouse Core Areas and GHMAs. High Plains EA at 17, WRBB EA at 2-1. This alternative is a fully reasonable and well-reasoned option, and BLM provides no explanation for why it was not considered in detail; this failure is inconsistent with the precepts of NEPA. Neither IM referenced precludes BLM from adopting stronger protection measures for sage grouse than are explicitly prescribed under the guidance they contain. Under NEPA, BLM must consider a range of reasonable alternatives, including those that are outside the agency's authority to implement. In this case, such an alternative would be fully within BLM's authority to implement; state office or national Instruction Memoranda are readily replaced without NEPA process.</p> <p>BLM's failure to note parcels that overlap with sage grouse GHMAs is a failure of NEPA's baseline information and hard look requirements. All portions of these parcels falling within GHMAs should be deferred as well, in order to implement the Mitigation Policy outlined earlier in these comments. The scientific information outlined elsewhere in these comments applies equally to GHMA, and the potential for</p>	

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		<p>significant impacts to sage grouse lek populations from oil and gas development springing from this lease sale is just as legally required in GHMA as in PHMA or SFA areas. In particular, the 0.25-mile ‘No Surface Occupancy’ buffers and 2-mile Timing Limitation Stipulations prescribed for PHMAs under BLM plans have explicitly been tested and found to result in significant negative impacts to sage grouse populations in the context of oil and gas development. According to Apa et al. (2008), “Buffer sizes of 0.25 mi., 0.5 mi., 0.6 mi., and 1.0 mi. result in estimated lek persistence of 5%, 11%, 14%, and 30%.” BLM’s own NEPA analysis for a recent Miles City Field Office oil and gas leasing EA provides a thorough synopsis:</p> <p>“Sage grouse are offered species specific protections through a stipulation. Under Alternative B, ¼ mile NSO buffers and 2 mile timing buffers would apply where relevant. Based on research, these stipulations for sage grouse are considered ineffective to ensure that sage grouse can persist within fully developed areas. With regard to existing restrictive stipulations applied by the BLM, (Walker et al. 2007a) research has demonstrated that the 0.4-km (0.25 miles) NSO lease stipulation is insufficient to conserve breeding sage-grouse populations in fully developed gas fields because this buffer distance leaves 98 percent of the landscape within 3.2 km (2 miles) open to full-scale development. Full-field development of 98 percent of the landscape within 3.2</p>	

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		<p>km (2 miles) of leks in a typical landscape in the Powder River Basin reduced the average probability of lek persistence from 87 percent to 5 percent (Walker et al. 2007a).</p> <p>According to Walker et al. (2007), Current lease stipulations that prohibit development within 0.4 km of sage-grouse leks on federal lands are inadequate to ensure lek persistence and may result in impacts to breeding populations over larger areas. Seasonal restrictions on drilling and construction do not address impacts caused by loss of sagebrush and incursion of infrastructure that can affect populations over long periods of time.</p> <p>In its 2010 Final Rule finding the greater sage grouse “warranted, but precluded” for listing under the Endangered Species Act, the U.S. Fish and Wildlife Service made the following observations based on the best available scientific and commercial information: The rationale for using a 0.4-km (0.25-mi) buffer as the basic unit for active lek protection is not clear, as there is no support in published literature for this distance affording any measure of protection.... this distance appears to be an artifact from the 1960s attempt to initiate planning guidelines for sagebrush management and is not scientifically based (Roberts 1991).</p> <p>In light of the overwhelming scientific evidence that the</p>	

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		<p>application of 0.25-mile NSO buffers and 2-mile timing stipulations are grossly inadequate to conserve sage grouse and their habitats in GHMA (or indeed elsewhere), BLM cannot rely on such current, scientifically unsound and invalid stipulations for the issuance of oil and gas leases in GHMA.</p> <p>Many parcels in this lease sale are located within 5.3 miles of one or more active sage grouse leks. The lands within 5.3 miles of active leks are typically used for nesting, a sensitive life history period when sage grouse are sensitive to disturbance from oil and gas drilling and production activities. The current standard sage grouse stipulations that apply outside Core Areas are biologically inadequate, and their effectiveness has not been established by BLM. Indeed, scientific studies demonstrate that these mitigation measures fail to maintain sage grouse populations in the face of full-field development, and significant impacts in terms of displacement of sage grouse from otherwise suitable habitat as well as significant population declines have been documented. BLM should not issue these sage grouse parcels unless a rigorous set of stipulations, far stronger than those provided in the EA (such as NSO stipulations), are applied to the parcels. This should include at minimum 4-mile No Surface Occupancy stipulations around active leks as recommended by the BLM National Technical Team. If these stipulations are implemented together with even stronger measures for</p>	

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		<p>Core and Connectivity Areas, the BLM could make a credible case that impacts from leasing would not result in significant impacts.</p> <p>Outside Core Areas, current sage grouse lease stipulations provide an NSO stipulation of ¼ mile around active sage grouse leks. This is a ridiculously inadequate amount of protection for the lekking grouse during the breeding period, nevermind for hens nesting on lands surrounding the lek. Studies have shown that the majority of hens nest within 3 miles of a lek, and that a 5.3-mile buffer would encompass almost all nesting birds in some cases. For Core Areas, the most scientifically supportable metric for NSO buffers would be 2 miles from the lek to protect breeding birds (after Holloran 2005, finding impacts from post-drilling production extend 1.9 miles from the wellsite) and 5.3 miles to protect nesting birds, with the understanding that the impacts of drilling and production activity would extend into the NSO buffer area from wells arrayed along its edge.</p> <p>Because leks sites are used traditionally year after year and represent selection for optimal breeding and nesting habitat, it is crucially important to protect the area surrounding lek sites from impacts. In his University of Wyoming dissertation on the impacts of oil and gas development on sage grouse, Matthew Holloran stated, “current development stipulations are inadequate to maintain greater sage grouse breeding populations in</p>	

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		<p>natural gas fields.” (Notably, these exact stipulations are being applied by BLM in this lease sale for non-Core Area sage grouse habitat parcels). The area within 2 or 3 miles of a sage grouse lek is crucial to both the breeding activities and nesting success of local sage grouse populations. Dr. Clait Braun, the world’s most eminent expert on sage grouse, has recommended NSO buffers of 3 miles from lek sites, based on the uncertainty of protecting sage grouse nesting habitat with smaller buffers. Thus, the prohibition of surface disturbance within 3 miles of a sage grouse lek is the absolute minimum starting point for sage grouse conservation.</p> <p>Other important findings on the negative impacts of oil and gas operations on sage grouse and their implications for the species are contained in three studies recently accepted for publication. Sage grouse mitigation measures have been demonstrated to be ineffective at maintaining this species at pre-development levels in the face of oil and gas development by Holloran (2005) and Naugle et al. (2006). This study found an 85% decline of sage grouse populations in the Powder River Basin of northeastern Wyoming since the onset of coalbed methane development there.</p> <p>BLM states, “With application of SOPs, applied mitigation, required design features and COAs identified for Greater Sage-grouse under the proposed action and RMP amendments/revision, impacts caused by surface-</p>	

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		<p>disturbing and disruptive activities would be minimized.” High Plains EA at 55. There is insufficient information based on the agency’s NEPA analysis, considering the best available science, to support this statement.</p> <p>BLM has repeatedly failed to provide any analysis, through field experiments or literature reviews, examining the effectiveness of the standard quarter-mile buffers where disturbance would be “avoided.” There is substantial new information in recent studies to warrant supplemental NEPA analysis of the impacts of oil and gas development to sage grouse. It is incumbent upon BLM to consider the most recent scientific evidence regarding the status of this species and to develop mitigation measures which will ensure the species is not moved toward listing under the Endangered Species Act. It is clear from the scientific evidence that the current protections are inadequate and are contributing to the further decline of the bird’s populations.</p> <p>State agency biologists have reached a consensus that the Timing Limitation Stipulations proposed for sage grouse in this lease sale are ineffective in the face of standard oil and gas development practices. These stipulations have likewise been condemned as inadequate by the U.S. Fish and Wildlife Service and renowned sage grouse expert Dr. Clait Braun. The BLM itself has been forced to admit that “New information from monitoring and studies indicate that current RMP decisions/actions may move</p>	

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		<p>the species toward listing...conflicts with current BLM decision to implement BLM's sensitive species policy" and "New information and science indicate 1985 RMP Decisions, as amended, may not be adequate for sage grouse." Continued application of stipulations known to be ineffective in the face of strong evidence that they do not work, and continuing to drive the sage grouse toward ESA listing in violation of BLM Sensitive Species policy, is arbitrary and capricious and an abuse of discretion under the Administrative Procedures Act.</p> <p>The restrictions contained in the recent Wyoming Greater Sage-Grouse Resource Management Plan Amendments and revisions come nowhere close to offering sufficient on-the-ground protection to sage grouse leks. Within Core Areas, the IM allows surface disturbing activity and surface occupancy just six tenths (0.6) of a mile from occupied sage-grouse leks, a far cry from the science-based 4-mile buffer recommended by the BLM's own National Technical Team, and inconsistent with the findings of Manier et al. (2014), who described the range of appropriate lek buffers as 3.1 to 5 miles. By acreage, a 0.6-mile buffer encompasses less than 4% of the nesting habitat contained within the 4-mile buffer recommended by agency experts, and therefore does essentially nothing to protect sensitive nesting habitats. Even less protective, restrictions outside Core or Connectivity Areas allow surface disturbing activities and surface occupancy as close as one quarter (0.25) of a mile from leks. BLM has</p>	

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		<p>too great an abundance of data to the contrary to continue with scientifically unsound stipulations. BLM should apply the recommendations of the National Technical Team instead, and in the meantime defer leasing until these recommendations can be formally adopted through the plan amendment/revision process.</p> <p>The vague stipulations included in BLM’s Notice of Competitive Oil and Gas Lease Sale for particular parcels do little to clarify to the interested public or potential lessees what restrictions might actually apply to protect sage grouse populations. For example, for some parcels, BLM imposes a Timing Limitation Stipulation and a Controlled Surface Use Stipulation. Such acceptable plans for mitigation of anticipated impacts must be prepared prior to issuing the lease in order to give the public full opportunity to comment, and to abide by the Department of Interior’s stated new policy to complete site-specific environmental review at the leasing stage, not the APD stage. Without site-specific review and opportunity for comment, neither the public nor potential lessees can clearly gauge how restrictive or lax “acceptable plans for mitigation” might be, and whether they comply with federal laws, regulations, and agency guidelines and policies. Thus, absent such review, the leases should not issue at all.</p> <p>BLM has the scientific information needed to recognize that any use of these parcels will result in further</p>	

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		<p>population declines, propelling the sage grouse ahead of other “priorities” on the ESA “candidate list.” Again, it is in all interested parties favor (conservation groups, potential lessees, BLM and other federal agencies) for BLM to determine specific “modifications” prior to issuing leases, such as NSO restrictions. If the BLM fails to do so through site-specific environmental review before the APD stage, the agency will violate the “jeopardy” prohibition in the Endangered Species Act and will not adhere to the directive of Secretary Salazar and the Department of Interior’s announced leasing reforms.</p> <p>We recommend against the sale of any lease parcels which contain sage grouse leks, nesting habitat, breeding habitat, wintering habitat and brood-rearing habitat. We request that these parcels be withdrawn from the lease sale. Failing withdrawal of the parcels, parcel-by-parcel NEPA analysis should occur (we have seen no evidence of this in the February 2017 Leasing EAs), and NSO stipulations must be placed on all lease parcels with sage grouse leks. In addition, three-mile buffers must be placed around all leks. It is critical that these stipulations be attached at the leasing stage, when BLM has the maximum authority to restrict activities on these crucial habitats for the protection of the species, and that no exceptions to the stipulations be granted. BLM’s failure to do so will permit oil and gas development activities which will contribute to declining sage grouse</p>	

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		<p>populations and ultimately listing by the U.S. Fish and Wildlife Service as a threatened or endangered species, in violation of BLM’s duty to take all actions necessary to prevent listing under its Sensitive Species Manual.</p> <p>In the past, BLM has noted that the deferral of sage grouse PHMA (sometimes termed “Core Area” in Wyoming) parcels is largely responsible for overall reductions in PHMA acreage leased and therefore reduced threats to sage grouse: The relatively subdued pace of new leasing in Core Areas is the direct result of the application of the BLM’s sage-grouse leasing screen, whereby many parcels in recent sales have been deferred from sale until the sage-grouse RMP amendments and ongoing plan revisions are completed.</p> <p>Wind River – Bighorn Basin [WY] August 2015 Lease EA at 4-44, and see graph on same page. The cessation of deferral for PHMAs in this lease auction will reverse this progress.</p> <p>Since the greater sage grouse is a BLM Sensitive Species and remains an open possibility for listing under the Endangered Species Act in 2020, the leasing of these lands under biologically inadequate stipulations is a violation of BLM Sensitive Species Policy, and constitutes undue degradation of sage grouse habitats and populations. Because alternate stipulations that are indeed</p>	

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		<p>biologically sufficient are available, and their implementation would avert significant impacts to sage grouse populations, the impacts incurred as a result of developing the leases in question are completely unnecessary.</p> <p>The No Surface Occupancy stipulation of 0.6 miles surrounding lek locations is insufficient to prevent significant impacts to lek populations based on the best available science. No scientific study has ever recommended a 0.6-mile lek buffer. In Wyoming, Holloran (2005) examined thresholds of distance from oil and gas wells and access roads (accessing 5 or more wellpads), and found that significant impacts to sage grouse lek populations occurred when a well or access road was sited within 1.9 miles of a sage grouse lek, irrespective of whether the intrusion was visible from the lek itself. Manier et al. (2014) reviewed the available scientific literature and determined that buffers in the range of 3.1 to 5 miles from the lek were appropriate based on the best available science. A 0.6-mile NSO buffer does not fall within this range. The agency's own experts conducted an earlier review of the best available science (National Technical Team 2011) and recommended no future leasing in sage grouse Priority Habitats, and applying a 4- mile No Surface Occupancy buffer around leks for previously existing leases.</p> <p>The programmatic RMP allows a 5% level of surface</p>	

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		<p>disturbance within sage grouse Core Areas, a level of surface disturbance that is incompatible with maintaining sage grouse populations and preventing population declines caused by excessive habitat destruction and fragmentation. No scientific study supports this level of surface disturbance. The National Technical Team (2011) recommended a 3% disturbance cap, to be applied on a per-square-mile-section basis. Knick et al. (2013) found that virtually all active leks were surrounded by lands with less than 3% surface disturbance. No scientific study supports the 5% threshold.</p> <p>The recently adopted Greater Sage-Grouse RMP Amendments and Revisions RMP also prescribe the use of a Disturbance Density Calculation Tool (DDCT) or equivalent method (often called “project analysis area”) to arrive at the density of wellsites as well as the overall disturbance percentage. Because the DDCT area is always much larger than the project area when sage grouse leks are present within 4 miles of the project area boundary, this method always underestimates the density of disturbances in cases where sage grouse breeding habitat is potentially affected by development. This allows a density of development inside the project area that far exceeds scientifically determined thresholds at which significant sage grouse population declines occur. No scientific study has ever tested what would be the thresholds of disturbance causing significant impacts to sage grouse populations using a DDCT. The National</p>	

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		<p>Technical Team (2011), by contrast, recommends that well and disturbance densities be calculated on a square-mile-section basis, not using a larger area.</p> <p>Current stipulations to protect sage grouse from oil and gas-related noise are inadequate. Noise can mask the breeding vocalizations of sage grouse (Blickley and Patricelli 2012), displaces grouse from leks (Blickley et al. 2012a), and causes stress to the birds that remain (Blickley et al. 2012b). According to Blickley et al. (2010),</p> <p>The cumulative impacts of noise on individuals can manifest at the population level in various ways that can potentially range from population declines up to regional extinction. If species already threatened or endangered due to habitat loss avoid noisy areas and abandon otherwise suitable habitat because of a particular sensitivity to noise, their status becomes even more critical.</p> <p>Noise must be limited to a maximum of 10 dBA above the ambient natural noise level after the recommendations of Patricelli et al. (2012); the ambient noise level in central Wyoming was found to be 22 dBA (Patricelli et al. 2012) and in western Wyoming it was found to be 15 dBA (Ambrose and Florian 2014, Ambrose 2015; Ambrose et al. 2015). Attachment 1 provides a review of the relevant literature on noise including analysis that indicates sage grouse lek population declines once noise</p>	

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		<p>levels exceed the 25 dBA level. With this in mind, ambient noise levels should be defined as 15 dBA and allowable cumulative noise should be limited to 25 dBA in occupied breeding, nesting, brood-rearing, and wintering habitats, which equates to 10 dBA above the scientifically-derived ambient threshold.</p> <p>In addition, it is critically important for BLM to identify and protect winter concentration areas. See Attachment 2. Oil and gas development has known impacts on sage grouse (Doherty et al. 2008). Thus far, the location of these habitats remains largely undetermined. These lands should be closed to fluid mineral leasing, with Conditions of Approval applying NSO stipulations inside and within 2 miles of these areas. The proposal to simply apply timing stipulations to these areas is insufficient because it allows construction of wellpads and roads known to be deleterious to wintering sage grouse inside these key habitats as long as construction/drilling occurs outside the winter season, and further allows production-related activities throughout winter. Thus, the sage grouse may return to their winter habitats to find an industrialized, fragmented habitat that no longer has any habitat function due to the birds' avoidance of such areas. A recent study (Smith et al. 2016) demonstrates that Wyoming Core Areas do not provide sufficient coverage to protect important winter habitats for sage grouse. See Attachment 3.</p>	

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		<p>We remain concerned that development activities on the sage grouse parcels noted above will result in significant impacts to sage grouse occupying these parcels and/or the habitats nearby, and the BLM's programmatic NEPA underlying this lease sale does not adequately address these significant impacts in light of new information. Therefore, the requisite NEPA analysis to support the leasing of the sage grouse parcels listed above in the absence of an Environmental Impact Statement does not exist.</p>	
16	WEG	<p>Conclusion Thank you for considering our comments on the February 2017 Leasing EAs. Currently, the action alternatives are not implementable absent full-scale EISs, as they will result in significant impacts to sage grouse, big game crucial ranges, and other sensitive resources. Even more work remains to be done on big game crucial ranges, and other sensitive wildlife habitats. We believe that the BLM should also go farther, deferring additional parcels on sensitive lands as outlined above and also applying more protective stipulations to the parcels that are approved for sale.</p> <p>Sincerely yours, Erik Molvar Wildlife Biologist 319 S. 6th Street Laramie, Wyoming 82070 307-399-7910</p>	<p>As stated in the introduction to DOI-BLM-WY-R000-2016-0002-EA, pursuant to 40 CFR § 1508.28 and § 1502.21, the EA tiers to and incorporates by reference the information and analysis contained in the Environmental Impact Statements (EIS), Records of Decisions (ROD) and Approved Resource Management Plans (RMP) for the Lander Field Office (LFO 2014), the Worland Field Office (WFO 2015), and the Cody Field Office (CyFO 2015); therefore, a new EIS for leasing is not necessary.</p> <p>Thank you for your continued interest in the competitive oil and gas lease sale process.</p>

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		<p>emolvar@wildearthguardians.org</p> <p>Attachments:</p> <ol style="list-style-type: none"> 1. Ambrose et al. (2015) summary of noise impacts 2. Copeland and Holloran (2015) review of sage grouse winter habitat literature 3. Smith et al. (2016) study showing inadequacy of Core Areas to protect winter habitats 	
17	Letter #2 from WildEarth Guardians (WEG)	<p>The following are the comments of WildEarth Guardians Climate and Energy Program on the Environmental Assessments (“EAs”) for the Bureau of Land Management (“BLM”) Wyoming February 2017 oil and gas lease sale. Please provide notice to me at tream@wildearthguardians.org if further action, including but not limited to issuance of a finding of no significant impact, is taken on this lease sale. Please also provide notice when any period for a formal protest or pre-decisional objection is set or changed. Finally, if BLM ever analyzes site-specific climate emissions of an application for permit to drill, please inform me.</p>	<p>Comments from WildEarth Guardians (WEG) regarding the February 2017 Lease Parcels EA were submitted as a combined document for both the Wind River/Bighorn Basin District (WR/BBD) February 2017 Lease Sale and the High Plains District (HPD) February 2017 Lease Sale. <i>As these are two distinct sales, in two distinct districts, with two distinct EA's, responses in this section apply only for the Wind River/Bighorn Basin District February 2017 Lease Sale EA.</i></p> <p>The WR/BBD does not maintain a mailing list for your notification request; however, the information you are requesting is available to the public through the BLM Wyoming website NEPA link, which outlines the procedure for public involvement and comment in the NEPA process. http://www.blm.gov/wy/st/en/info/NEPA.html</p> <p>For more information about oil and gas and leasing and the leasing EAs, please visit the BLM Wyoming website at: http://www.blm.gov/wy/st/en/programs/energy/Oil_and_Gas.html</p>

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18	WEG	<p>For many years, the Bureau of Land Management has prioritized coal, oil, and gas leasing and related development over other uses of public land, such as protecting wildlife, watersheds, and public recreation. The error of this approach is increasingly obvious. In these NEPA documents and throughout the agency's work, BLM fails to recognize that already existing federal coal, oil, and gas leases, if fully developed, would result in climate emissions that far exceed a safe and livable global temperature rise and would render our oceans too acidic for much existing marine life. BLM is choosing, contrary to federal law and without legally required disclosure, an unsafe climate for us and for future generations.</p> <p>After years of waiting, the Secretary of the Interior has finally taken initial action with respect to the federal coal program. The Secretary, following on the heels of the President's 2016 State of the Union address, noted the tremendous impacts to taxpayers and the planet stemming from its coal leasing program. She ordered a programmatic environmental impact review of the coal program and shut down most new leasing until that review is complete. The exact same solution is needed for the public lands oil and gas program.</p> <p>Instead, with every new set of oil and gas leases, like the ones proposed here, BLM further breaks the global carbon budget for a livable climate, signals that other countries can behave just as irresponsibly, and increases the</p>	<p>Beyond the scope of this document. The February 2017 Competitive Oil and Gas Lease Sale is not a regulatory action, but rather an administrative action. The act of leasing land for oil and gas development in itself does not directly emit any carbon or greenhouse gases.</p> <p>A discussion of Air Quality has been addressed in the EA in part 3.4.3. A separate discussion of Climate Changes has been addressed in the EA in part 3.4.4.</p> <p>Land Use Plans or Resource Management Plans (RMP) consider the availability of public lands for oil and gas leasing. This leasing EA addresses how those nominated parcels will be stipulated in conformance with the RMPs. If an Application for Permit to Drill is received proposing to develop a lease parcel, site specific analysis of the impacts is conducted and impacts will be mitigated as determined necessary.</p> <p>Absent a definitive development proposal it is not possible to conduct a more specific impact and/or cumulative effects analysis. BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity development may occur. Additional NEPA compliance documentation would be prepared at the time an APD(s) or field development proposal is submitted.</p> <p>The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG</p>

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		<p>intensity of current and future catastrophic climate impacts. See The Potential Greenhouse Gas Emissions of U.S. Federal Fossil Fuels, Ecoshift (August 2015) Ex. 1. As BLM dithers, solutions forced on the next generation become more onerous and more expensive.</p> <p>It should be noted: even a complete end to new leasing would leave massive public lands acreage in the hands of oil and gas companies. The Obama Administration has leased more than 10 million acres of public land (and 19.4 million acres in our oceans) to oil and gas companies. Approximately 65% of this land is not producing any oil or gas. In fact, using the government’s own projections for public lands and oceans oil and gas production, even with an end to leasing today, the backlog of existing leases would allow several decades of continual oil and gas production. Ex. 1A - Over-Leased: How Production Horizons of Already Leased Fossil Fuels Outlast Global Carbon Budgets, EcoShift (2016) at 1.</p> <p>As detailed below, the problems with this proposed lease sale and its compliance with the National Environmental Policy Act (“NEPA”) are such that BLM should adopt a no action alternative. In any case, it is clear that this NEPA analysis is inadequate to support project approval without supplemental analysis.</p>	<p>emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. <i>WildEarth Guardians v. Jewell</i>, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) <i>WildEarth Guardians v. BLM</i>, , 8 F. Supp. 3d 17; 34 (D.D.C. 2014)</p> <p>The BLM currently has not issued formal policy or guidance that provides direction for analyzing climate change and GHGs in NEPA per CEQs final guidance issued August, 2016. The BLM continues to analyze these impacts in NEPA analyses completed for site-specific development proposals. This EA has tiered to, and incorporated by reference, the projected GHG emissions calculated for each FO’s Reasonably Foreseeable Development scenario which is the expected number of wells based on reservoir potential.</p>
19	WEG	<p>Failure to Identify Federal Surface Acreage Offered</p> <p>An EA that evaluates a sale of federal land rights but</p>	<p>Thank you for your comment. Table 1-6 has been added to the EA. The table identifies surface ownership. Additionally, a short discussion has been added to the EA describing the addition of</p>

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		<p>which fails to divulge the acreage of the federal surface rights conveyed certainly violates NEPA. I could be wrong about this, but as far as I can tell, BLM has failed in its February 2017 Competitive Oil & Gas Lease Sale Wind River/Bighorn Basin EA (“WRBBD EA”) to inform the decision maker or the public of the federal surface acreage BLM is leasing. If that information is in the EA, it is certainly not presented in a manner that makes it readily available.</p> <p>If this is the case, BLM must supplement its EA and identify the federal acreage it is leasing. BLM Wyoming ignores a great deal of relevant information to hide impacts of its oil and gas leasing program on the federal estate, but hopefully even BLM will agree that it cannot lease federal lands without identifying how much surface acreage it is leasing. For this reason alone, the EA must be supplemented or the no action alternative chosen.</p>	<p>the Table. Of the 12,756.78 acres of federal mineral estate, approximately 980.240 surface acres are fee surface, and approximately 11,776.540 surface acres managed by the BLM. The EA will continue to reference the lease sale acreage as the total federal mineral estate acreage of 12,756.78 acres.</p> <p>As discussed throughout the EA, the WR/BBD February 2017 Competitive Oil & Gas Lease Sale Proposed Action Alternative would make approximately 12,800 acres of federal mineral estate available for lease sale. If the BLM owns the mineral estate within split estate lands, the BLM notifies the surface owner (as identified by the party submitting the EOI) of the lease nomination and a second notification that the EA is available for review and comment. Split estate is discussed further in the EA part 3.4.14.</p>
20	WEG	<p>BLM Again Fails to Follow the Council on Environmental Quality Guidance on Climate Change and NEPA</p> <p>Well before this document was completed, a December 2014 release of the Council on Environmental Quality’s (“CEQ”) “Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts” (“Draft Guidance”) was provided to BLM. Ex. 2. That guidance has now been updated and finalized on August 1, 2016 as the “Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions</p>	<p>To reiterate: Comments from WildEarth Guardians (WEG) regarding the February 2017 Lease Parcels EA were submitted as a combined document for both the Wind River/Bighorn Basin District (WR/BBD) February 2017 Lease Sale and the High Plains District (HPD) February 2017 Lease Sale. <i>As these are two distinct sales, in two distinct districts, with two distinct EA's, responses in this section apply only for the Wind River/Bighorn Basin District February 2017 Lease Sale EA.</i></p> <p>Beyond the scope of this document. The February 2017 Oil and</p>

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		<p>and the Effects of Climate change in National Environmental Policy Act Reviews” (“Final Guidance”). Ex. 2A. In most important respects, the Final Guidance adheres to the principles laid out in the Draft Guidance. BLM continues to ignore most of the requirements set forth in either version. That such behavior is widespread throughout BLM’s oil and gas program suggests a failure of leadership at the highest levels of the Department and the Administration.</p> <p>A programmatic EIS is necessary</p> <p>Put simply, BLM is failing to describe or to analyze climate impacts from its oil and gas program and these NEPA documents are no exception. The repeated pattern and practice of such failure suggests that only a programmatic analysis at the national level can address this shortcoming. In fact, a programmatic analysis is exactly what the CEQ Guidance calls for. The Draft Guidance suggested that for “long-range energy” actions, “it would be useful and efficient to provide an aggregate analysis of [greenhouse gas] emissions or climate change effects in a programmatic analysis and then incorporate by reference that analysis into future NEPA review.” Draft Guidance at 29. The Final Guidance repeats that call. Final Guidance at 31. The final guidance suggests that “[examples of project- or site-specific actions that may benefit from being able to tier to a programmatic NEPA review include: . . . issuing leases for oil and gas drilling.”</p>	<p>Gas Lease Sale is an administrative leasing action. The act of leasing land for oil and gas development in itself does not directly emit any carbon or greenhouse gasses.</p> <p>A discussion of Air Quality has been addressed in the EA in part 3.4.3. A separate discussion of Climate Changes has been addressed in the EA in part 3.4.4.</p> <p>Land Use Plans or Resource Management Plans (RMP) consider the availability of public lands for oil and gas leasing. This leasing EA addresses how those nominated parcels will be stipulated in conformance with the RMPs. If an Application for Permit to Drill is received proposing to develop a lease parcel, site specific analysis of the impacts is conducted and impacts will be mitigated as determined necessary.</p> <p>Absent a definitive development proposal it is not possible to conduct a more specific impact and/or cumulative effects analysis. BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity development may occur. Additional NEPA compliance documentation would be prepared at the time an APD(s) or field development proposal is submitted.</p> <p>The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts</p>

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		<p>Final Guidance at 32. The lack of climate analysis of this long-range energy action demonstrates that this office, along with other state offices as demonstrated in other recent oil and gas leasing EAs, is incapable or unwilling to undertake adequate review of greenhouse gas (“GHG”) emissions or climate change effects. This is exactly why the CEQ Guidance is correct in calling for programmatic analysis of climate emissions and effects for programs like the BLM oil and gas leasing program. Thus, the CEQ Guidance creates an expectation that BLM would undertake a programmatic EIS of its oil and gas program, which it has thus far failed to do.</p> <p>BLM recently stated the following:</p> <p>CEQ recommends that an agency select the appropriate level of action for NEPA review at which to assess the effects of GHG emissions and climate change, either at a broad programmatic or landscape-scale level or at a project-specific level, and that the agency set forth a reasoned explanation for its approach. A specific example CEQ cited of a project-specific action that can benefit from a programmatic NEPA review is authorizing leases for oil and gas drilling. Given the aggregate nature of GHG contributions to global climate change, and the aggregate nature of climate change impacts to area-specific impacts analyzed in a field office NEPA document, it is readily apparent that the type of analysis suggested in the comments is more appropriate at a</p>	<p>have upheld when considering NEPA challenges to BLM federal coal leasing decisions. <i>WildEarth Guardians v. Jewell</i>, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) <i>WildEarth Guardians v. BLM</i>, , 8 F. Supp. 3d 17; 34 (D.D.C. 2014)</p> <p>Neither DOI nor BLM has issued formal policy or guidance that provides direction for analyzing climate change and GHGs in NEPA per CEQs final guidance issued August 2016. The BLM continues to analyze these impacts in NEPA analyses completed for site-specific development proposals. This EA has tiered to, and incorporated by reference, the projected GHG emissions calculated for each FO’s Reasonably Foreseeable Development scenario which is the expected number of wells based on reservoir potential.</p> <p>The BLM will include additional climate change analysis in future NEPA documents in accordance with CEQ’s final guidance for addressing Greenhouse Gas Emissions and Climate Change Impacts in NEPA (August 2016). However, since leasing actions in and of themselves do not authorize any level of development to occur, emission-generating activities and quantitative analysis of such activities is not reasonably foreseeable and entirely speculative at the leasing stage. Any future development that may occur as a result of the lease sale will be further analyzed when specific development details are provided in order to complete an appropriate site-specific air quality analysis upon which mitigation decisions can be based.</p>

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		<p>programmatic level, preferably at the regional or larger scale.</p> <p>BLM Utah Environmental Assessment for the May 2016 Oil and Gas Lease Sale (DOI-BLM- UT-C020-2016-0002-EA) at 24.</p> <p>It is a wonderful advancement in BLM’s thinking in at least one office to acknowledge the CEQ Guidance and agree with Guardians and CEQ that programmatic analysis is necessary to take a “hard look” at climate emissions and impacts as required by NEPA. However, merely acknowledging this lack of analysis is not a substitute for it. In fact, it is an admission that the hard look required by NEPA has not yet been taken. Such a statement is an admission that BLM’s current analysis is not legally sufficient to support project approval. We agree that it is necessary for proper implementation of NEPA for BLM State Offices to have a PEIS to tier to. Absent one, there are only two choices. Perform an equivalent analysis here or select the no action alternative. It would be reckless and illegal to do otherwise. BLM seems bent on continuing to choose the course of recklessness, both with regard to our climate and to the law.</p> <p>BLM appears to misconstrue the CEQ Guidance to imply that if climate change analysis cannot be done at the field office level, it need not be done at all. This is a misreading. Site- specific analysis is still required. Where</p>	

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		<p>an agency has chosen to ignore programmatic analysis in favor of site-specific climate analysis, it is required to “set forth a reasoned explanation” for that failure. Draft Guidance at 4, Final Guidance at 4. Absent programmatic analysis, BLM is still required to adequately analyze climate impacts and to “apply fundamental NEPA principles to the analysis of climate change through assessing GHG emissions” as per the Guidance and the law itself. Draft Guidance at 30. BLM has not done so in the relevant Resource Management Plans or in the NEPA documents under review. The failure to apply fundamental NEPA principles in analyzing climate emissions and effects in these NEPA documents or in tiered documents are obvious and unfortunate.</p> <p>BLM does not have the discretion to ignore existing information and tools and simply wave away emissions as insignificant</p> <p>The touchstone of any NEPA analysis is to take a hard look at impacts and provide useful information to decision makers and the public; the analysis of climate impacts is no different. Draft Guidance at 2. Such analysis does not require the development of new information or tools for analysis, but does require that existing information and tools are applied appropriately. Draft Guidance at 4. (Examples include but are not limited to air pollution models, reasonably foreseeable development scenarios, and emissions factors for various systems.) BLM should</p>	

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		<p>heed CEQ's advice that providing climate change analysis will not only satisfy the critically important mandates of NEPA, but will also reduce the risk of litigation. Draft Guidance at 2.</p> <p>It is true that agencies have discretion in how to apply available information and tools, but the depth of this discretion is a function of the agency's "expertise and experience" with climate change and its impacts. Draft Guidance at 5. It is clear that such expertise is largely absent in state BLM offices, including this office. For example, both EAs continue to labor under the ridiculous notion that, in 2016, climate science is in "its formative phase." HPD EA at 13. This could result from the HPD EA being written without the aid of an air specialist and with the only physical scientist involved in no more than field visits. HPD EA at 58-59. While the WRBBD EA is equally deficient in climate change analysis, an air specialist was at least involved and the EA at least notes that climate change is a serious problem that could significantly increase local temperatures and reduce local area rainfall in the coming years. WRBBD EA at 3-9. Given this lack of experience and expertise at the state office, agency discretion to ignore the CEQ Guidance is at its low ebb. This is glaringly apparent at the district and field levels, again suggesting the need for national programmatic analysis of the BLM oil and gas leasing program. Slapping in some language from old EAs is not sufficient to meet NEPA requirements. "It is essential,</p>	

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		however, that Federal agencies not rely on boilerplate text to avoid meaningful analysis, including consideration of alternatives or mitigation.” Draft Guidance at 5-6.	
21	WEG	<p>Actual emissions, including from oil and gas use, must be analyzed for lease sales</p> <p>The core of any climate change NEPA analysis is an actual analysis of emissions. The principle focus of the CEQ Guidance is to alert agencies to the need to “quantify a proposed agency action’s projected direct and indirect GHG emissions.” Final Guidance at 4. There is not free pass given to BLM to ignore indirect impacts to our climate from its oil and gas leasing program. It should be noted, all estimates of future project emissions are speculative to some degree, but nonetheless required by NEPA whenever reasonably foreseeable. To estimate emissions here would not be difficult and has been and is being done by other BLM offices. BLM has all the information and tools necessary to do such an analysis.</p> <p>The repeated lack of analysis climate change analysis might be because BLM thinks that fossil fuel leasing is a special example that absolves it of this requirement to estimate emissions. CEQ, however, makes it a specific point to state that such estimates are required when leasing fossil fuels. For example, a federal lease sale for coal requires an estimate of resulting emissions, including “impacts associated with end-use of the fossil fuel.” Final</p>	<p>Beyond the scope of this document. The February 2017 Oil and Gas Lease Sale is an administrative leasing action. There are no direct impacts to air quality or climate change through the administrative action of leasing. Should the leases be developed in the future, impacts to air quality or climate change will be analyzed through additional site and project-specific NEPA analysis, and conformance with State and Federal air quality standards and regulations will be evaluated. As new information is gathered, it will be incorporated into BLM decisions and may require conditions of approval to mitigate adverse impacts to air quality or climate change.</p> <p>A discussion of Air Quality has been addressed in the EA in part 3.4.3. A separate discussion of Climate Changes has been addressed in the EA in part 3.4.4.</p> <p>Land Use Plans or Resource Management Plans (RMP) consider the availability of public lands for oil and gas leasing. This leasing EA addresses how those nominated parcels will be stipulated in conformance with the RMPs. If an Application for Permit to Drill is received proposing to develop a lease parcel, site specific analysis of the impacts is conducted and impacts will be mitigated as determined necessary.</p> <p>Absent a definitive development proposal it is not possible to</p>

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		<p>Guidance at 16, FN 42; Draft Guidance at 12. Moreover, not just emissions, but the reasonably foreseeable long-term climate effects of such an action must be analyzed to fulfill NEPA’s mandate. Final Guidance at 18, Draft Guidance at 12.</p> <p>Please note, the Guidance is applicable to site-specific actions, like an individual lease, but also to “Federal land and resource management decisions,” like resource management plans. Final Guidance at 9, Draft Guidance at 8. Thus, GHG emissions and climate impacts should be analyzed in a Resource Management Plan, which was not done here, at the oil and gas leasing stage, which was not done here, and, at the application for permit to drill stage, which is generally not being done by BLM either. Put simply, NEPA analysis is required for all proposed Federal actions, 40 CFR § 1508.18, and the analysis of climate impacts is no different, Final Guidance at 9, Draft Guidance at 8.</p> <p>Emissions estimates are not limited only to the climate pollution that results from construction and production of fossil fuel projects. The “reasonably foreseeable effects” on our climate that must be analyzed under NEPA include those that come from “using the resource.” Final Guidance at 14, Draft Guidance at 12. Thus, the analysis of emissions from the burning of oil and gas must be included in oil and gas leasing NEPA analysis, which was not done here.</p>	<p>conduct a more specific impact and/or cumulative effects analysis. BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity development may occur. Additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted.</p> <p>The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. <i>WildEarth Guardians v. Jewell</i>, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) <i>WildEarth Guardians v. BLM</i>, , 8 F. Supp. 3d 17; 34 (D.D.C. 2014)</p> <p>This EA has tiered to, and incorporated by reference, the projected GHG emissions calculated for each FO’s Reasonably Foreseeable Development scenario which is the expected number of wells based on reservoir potential.</p> <p>CEQ’s guidance provides discretion for agencies to determine when a quantitative analysis and impact assessment for GHGs and climate change is appropriate:</p> <p><i>“Recommends that agencies select the appropriate level of action for NEPA review at which to assess the effects of GHG emissions and climate change, either at a broad programmatic level (e.g.</i></p>

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		<p>There is a presumption that climate emissions are quantitatively analyzed; if BLM chooses to do otherwise, it must “explain its basis for doing so.” Final Guidance at 4, Draft Guidance at 16. “Quantification tools are widely available, and already in broad use in the Federal and private sectors, by state and local governments, and globally.” Final Guidance at 12. One basis for providing no more than a qualitative analysis is that the tools and information for producing quantitative analysis are not reasonably available. Final Guidance at 13, Draft Guidance at 15. If, however, such tools and information are available, BLM “should conduct and disclose quantitative estimates of GHG emissions.” Draft Guidance at 15. Again, such emissions estimates must include those from fossil fuel combustion. Draft Guidance at 15. Where such tools are not reasonably available, BLM should “provide a qualitative analysis and its rationale for determining that the quantitative analysis is not warranted.” Final Guidance at 13.</p> <p>BLM has not done so here, despite the fact that BLM has the tools and information to estimate project emissions. For years, BLM state offices have estimated fossil fuel production from lease sales so that they could tout the economic impacts of the proposed projects. BLM has shown it is capable of going one step further and converting production estimates into emissions estimates. See, e.g., Ex. 3 – Utah BLM May 2015 Oil and Gas Lease</p>	<p><i>landscape-scale) or at a project- or site-specific level, and then set forth a reasoned explanation for their approach”</i></p> <p>The BLM will include additional climate change analysis in future NEPA documents in accordance with CEQ’s final guidance for addressing Greenhouse Gas Emissions and Climate Change Impacts in NEPA (August 2016). However, since leasing actions in and of themselves do not authorize any level of development to occur, emission-generating activities and quantitative analysis of such activities is not reasonably foreseeable and entirely speculative at the leasing stage. NEPA does not require speculation or quantitative analysis if development scenarios are unknown. Any future development that may occur as a result of the lease sale will be further analyzed when site-specific development details are provided in order to complete an appropriate air quality analysis.</p>

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		<p>Sale Environmental Assessment (December 2014) at 30-31. The U.S. Forest Service is also capable of estimating emissions from a BLM lease sale. See, e.g., Ex. 4 – Pawnee National Grassland Oil and Gas Leasing Analysis Draft Environmental Impact Statement (August 2014) at 277-87 and Ex. 4A -- Previously Issued Oil and Gas Leases in the White River National Forest Draft Environmental Impact Statement, Bureau of Land Management (November 2015). BLM Miles City Field Office also created aggregated estimates of emissions from years of foreseeable projects. Ex. 4B -- Miles City Proposed Resource Management Plan and Final Environmental Impact Statement (2015) at Chapter 4. Finally, the Four Rivers Field Office of Idaho utilized an emission calculator developed by air quality specialists at the BLM National Operations Center in Denver and a 2013 report prepared for BLM by Kleinfelder to estimate likely greenhouse gases that would result from leasing five parcels. See Ex. 4C -- “Little Willow Creek Protective Oil and Gas Leasing,” EA No. DOI- BLM-ID-B010-2014-0036-EA (February 10, 2015) and Ex. 4D -- Kleinfelder, “Air Emissions Inventory Estimates for a Representative Oil and Gas Well in the Western United States,” report prepared for Bureau of Land Management (March 25, 2013).</p> <p>Once BLM has an estimate of possible fossil fuels produced from a project, it is quite simple to calculate the climate emissions that will result from the combustion of</p>	

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		<p>those fuels. Likewise, BLM has the information to estimate construction and production emissions and can easily apply the existing and widely known scientific literature to estimate methane releases. If uncertainty must be handled by presenting a range of possible estimates, that is an acceptable practice under NEPA.</p> <p>Please note, although the CEQ Guidance suggests agencies' should apply a rule of reason when determining the level of effort expended in analyzing GHG emissions, this is not a justification for avoiding a quantitative analysis for the project in question. First, as noted above, "[i]f tools or methodologies are available, . . . agencies should conduct and disclose quantitative emissions." Draft Guidance at 15. Second, the rule of reason means "reasonably proportionate to the importance of climate change related considerations to the agency action being evaluated." Draft Guidance at 14. Climate emissions from the BLM oil and gas leasing program have never been adequately evaluated at the programmatic, resource management plan, leasing, or applications for permit to drill levels. Onshore fossil fuels other than coal are currently responsible for a whopping 19% of federal leasing emissions. Ex. 5 - Cutting Greenhouse Gas From Fossil-Fuel Extraction on Federal Lands and Waters (CAP Report), Center for American Progress (March 19, 2015) at 4. That represents approximately 5% of all energy-related emissions in the U.S. See CAP Report at 1 noting total federal lands and waters energy-related emissions at</p>	

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		<p>24% and multiplying by 19%. This is a huge and nationally important volume of emissions that has never been analyzed under NEPA in any fashion. Until BLM completes a quantitative analysis of emissions of its oil and gas leasing program at the programmatic level, there can be no doubt that emissions from individual federal lease sales warrant a quantitative estimate.</p> <p>Finally, the rule of reason still demands that BLM “ensure the professional and scientific integrity of [its] decisions and analysis.” Final Guidance at 30, FN 77; Draft Guidance at 14, citing 40 CFR § 1502.24. BLM offices still to this day often cannot admit of basic climate science conclusions. Calling climate science formative to dismiss the need for analysis, or claiming that the standard for such analysis is “certainty” lacks the required level of integrity.</p> <p>Estimates of climate emissions need to be put in context and the social cost of carbon is an appropriate tool for doing so</p> <p>An estimate of emissions presented, without any context, means little to decision makers or the public. A ton or a gigaton of carbon dioxide equivalent (“CO2e”) has little meaning to all but those most deeply steeped in climate science. Thankfully, a simple tool that contextualizes emissions by translating tons of carbon into estimates of the costs to society of emitting that carbon is readily</p>	

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		<p>available. This social cost of carbon (“SCC”) evaluation tool is discussed in more depth in later sections.</p> <p>BLM has suggested in the past various reasons why the SCC is not an appropriate tool for contextualizing climate emissions. The CEQ Guidance recognizes that SCC estimates “vary over time, are associated with different discount rates and risks, and are intended to be updated as scientific and economic understanding improves.” Final Guidance at 33, FN 86; Draft Guidance at 16. These shortcomings, however, do not disqualify the methodology from use under NEPA or otherwise render it useless. Id. The CEQ Guidance discusses SCC solely in terms of cost-benefit analyses. Id. This discussion does not, however, in any way suggest that the SCC is an inappropriate tool for other aspects of NEPA analysis.</p> <p>These comments do not call for a cost-benefit analysis. Instead, we merely contend that once emissions estimates for a project exist, it is a simple calculation to cast those emissions estimates in terms of the costs to society from resulting climate change. Failure to do so is a failure to provide decision makers and the public with a critical context for understanding the importance of a particular amount of climate emissions.</p> <p>In summary, the CEQ Guidance provides a meaningful roadmap for BLM offices that are clearly struggling with their ability to present meaningful analysis of the climate</p>	

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		<p>impacts of their fossil fuel projects. This guidance is not binding, but it is not without effect. It represents the Executive Branch's clearest and most extensive statement on what agencies must do to comply with NEPA standards. It is a benchmark, not an absolute standard. In that sense, the final guidance is of more significance than the draft. It is the more refined benchmark of the two. It is the best description of what agencies have always been responsible for doing, now made explicit. Unfortunately, BLM has failed to employ nearly every relevant point presented by CEQ. This alone renders the EA inadequate to meet the requirements of NEPA.</p> <p>BLM Fails to Analyze Climate Emissions or Impacts</p> <p>Here, BLM has failed to follow nearly every recommendation from the climate and NEPA experts at CEQ. The depth of that failure in the face of the enormity of the climate problem should be a shocking embarrassment for all involved.</p> <p>The WRBBD EA ignores NEPA's requirement to analyze impacts at the earliest opportunity and instead promises to do so at the last opportunity, when an Application for Permit to Drill ("APD") is submitted. WRBBD EA at 3-1, 3-4. This promise has several problems. First, failure to analyze emissions at the earliest opportunity is a violation of NEPA. Second, while BLM promises to analyze emissions later, on the same page BLM also admits that,</p>	

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		<p>once leased, “subsequent decisions could not conflict with the valid rights afforded by the lease.” WRBBD EA at 3-1. Analysis after an irretrievable commitment of resources is also a violation of NEPA. It is too late for BLM to analyze climate emissions after it believes it has already given up any right to mitigate those emissions. Third, BLM justifies a failure to analyze emissions because doing so here is “too speculative.” WRBBD EA at 3-1. As shown above, work by other BLM offices make clear this is simply false. It is reasonably foreseeable that leasing more than 12,000 acres of federal minerals, chosen by the oil and gas industry for oil and gas drilling, will lead to oil and gas production. It is the entire point of the federal oil and gas program. For BLM to pretend that it doesn’t know if oil and gas leasing will lead to oil and gas productions is preposterous. It is what has happened for a century. It is reasonably foreseeable that it will happen here. Fourth, the EA claims that the tiered RMPs adequately analyzed climate emissions and impacts. WRBBD EA at 3-1. A quick look at the cursory RMP climate analysis, devoid of quantitative analysis (or qualitative analysis with an explanation why quantitative analysis is not reasonable) makes clear that there is nothing significant to tier to. Finally, and perhaps most embarrassing, BLM Wyoming, despite its word, has not and is not analyzing climate emissions and impacts in its APD NEPA work. This failure is despite identical promises of APD climate analysis in earlier leasing EAs.</p>	

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		<p>BLM Wyoming uses the ePlanning system for providing NEPA document to the public. On August 20, 2016, I searched the system for all NEPA documents related to APD approval in FY 2016. For unknown reasons, documents for only two projects are available to the public. Those documents repeat the pattern seen throughout most BLM offices. Lease EAs promise that climate emissions and impacts analysis will occur in APD NEPA documents, but it almost never happens. The NCRU 14-29 APD and ROW EA (December 2015) and the Paw Paw Federal No. 1 APD and ROW EA (May 2016) fail to even mention the word “climate” or the phrase “greenhouse gas.” Ex. 6 and Ex. 6A. There is no climate analysis whatsoever. Because this has now happened repeatedly, it appears BLM is actively and consistently deceiving both the public and project decision makers. At some point, an Office of the Inspector General or Government Accountability Office investigation of this deception is probably warranted.</p> <p>With its do-it-later promise, BLM then proceeds without even bringing climate change forward as a issue for further analysis. WRBBD EA at 3-14. This treatment of climate impacts from oil and gas leasing is both immoral and illegal.</p> <p>The HPD EA does no better, despite proposing to lease more than 171,000 acres of federal minerals. The HPD EA does make several notable acknowledgments. It assumes</p>	

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		<p>that proposed leasing will lead to new wells. HPD at 49. It notes that oil and gas development in the High Plain District generates GHG emissions. HPD EA at 22. And it admits “when site- specific impacts are reasonably foreseeable at the leasing stage, NEPA requires the analysis and disclosure of such reasonably foreseeable site-specific impacts.” HPD EA at 41. BLM then ignores this line of reasoning and refuses to analyze climate impacts from proposed leasing.</p> <p>Multiple excuses are given. BLM claims that leasing produces no direct, indirect, or cumulative impacts. HPD EA at 13. The CEQ Guidance, cited above, makes clear that this is an incorrect interpretation of how NEPA applies to mineral leasing. BLM claims that tools for estimating emissions and impacts are not precise enough for its taste. HPD at 13. CEQ makes clear that uncertainty is unavoidable, but no excuse for ignoring the issue. BLM again makes the false promise that climate analysis happens at the APD stage when there is no evidence it has or is engaging in such analysis. HPD EA at 41.</p> <p>BLM also claims that it is too speculative to assume that leasing 171,000 acres of lands requested by the oil and gas industry for oil and gas drilling will actually produce any oil or gas. HPD EA at 11, 41. Curiously, BLM claims that from 1960 to 2011 only 5 to 6% of leases issued ever produced any oil and gas, only 4,920 out of 75,192 leases. HPD EA at 11. This is odd, because BLM also claims that</p>	

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		<p>in 2010, there were 39,500 wells producing in the High Plains District alone. HPD EA at 50. Please face facts: leasing 171,000 acres cannot fail to produce oil and gas. It is the very picture of reasonably foreseeable.</p> <p>Despite all of the above argument, however, BLM concludes by claiming it will analyze GHGs, but not climate change. HPD EA at 13, 18. Sadly, what passes for “analysis” is ridiculous. The purported math is fairly unintelligible, but the solution is all one needs to examine to assess its credibility. BLM claims that 39,500 wells in the High Plains District produce no more than 12.94 metric tons of GHG emissions per year. HPD EA at 50. The person who wrote that is either so uninformed about climate change so as not to realize how stupid that sounds to anyone who has looked into the issue in even a cursory manner, or he or she is unabashedly content to deceive the public and the decision maker. This is probably more fodder for an IG or GAO investigation.</p> <p>First, “tons of GHG emissions” is not a defined unit in a climate change context. GHGs can include carbon dioxide, methane, or other gases. They each have various global warming potentials. They cannot be lumped together in a sensible fashion when talking about climate effects. Second, the number itself is so low as to be patently ridiculous. According the EPA, a barrel of oil produces 0.43 metric tons of CO2 when burned. So 12.94 metric tons of CO2 are created from burning 30 barrels of oil.</p>	

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		<p>Ignoring methane, construction, production, transport, and other emissions, BLM is claiming that the 39,500 wells on the High Plains District produce no more than 30 barrels of oil per year. This is perhaps the unavoidable result when Project Manager Randy Sorenson decides to prepare an oil and gas leasing EA without including an air specialist. The level of deception becomes incredibly transparent.</p> <p>For these reasons, the EAs in question are legally insufficient.</p>	
22	WEG	<p>The Social Cost of Carbon Has Been Ignored</p> <p>The high costs to society from the leasing and subsequent burning of public lands fossil fuels must be properly analyzed and that analysis presented to the public and agency decision makers. Historically, BLM has ignored the costs of fossil fuel leasing on public lands, especially the costs to society that result from global warming, while touting economic benefits. Proper consideration of these social costs of carbon is simply good governance and good stewardship of public resources, and such consideration is legally required.</p> <p>Global warming is responsible for extreme costs to society already, and it will only get worse in the future.</p> <p>A recent consensus report, joined by more 190 countries,</p>	<p>Beyond the scope of this document. The February 2017 Oil and Gas Lease Sale is an administrative leasing action. The act of leasing land for oil and gas development in itself is not directly responsible for activities that could result in impacts including potential ‘social costs of carbon’.</p> <p>Land Use Plans or Resource Management Plans (RMP) consider the availability of public lands for oil and gas leasing. This leasing EA addresses how those nominated parcels will be stipulated in conformance with the RMPs. If an Application for Permit to Drill is received proposing to develop a lease parcel, site specific analysis of the impacts is conducted and impacts will be mitigated as determined necessary.</p> <p>Absent a definitive development proposal it is not possible to conduct a more specific impact and/or cumulative effects analysis. BLM cannot determine at the leasing stage whether or</p>

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		<p>makes the basic science on global warming crystal clear. Global warming is unequivocal: since the 1950s the atmosphere and oceans have warmed, snow and ice have diminished, and seas have risen. Ex. 6, Climate Change 2013 – The Physical Science Basis - Summary for Policymakers, United Nation Intergovernmental Panel on Climate change (2013) (“AR5 summary”) at 4. There is little doubt that pollution from human activities is the cause of this warming. Id. at 17. The U.S. government’s own more recent report concludes that global warming is now affecting our country in far-reaching ways. Ex. 7, National Climate Assessment 2014 – Overview (“National Climate Assessment”). Climate pollution has warmed the U.S. almost 2°F, mostly since 1970, with another 2°F to 4°F expected in the next few decades. Id. Much greater warming in future decades is also possible, possibly up to an increase of 10°F above current temperatures by the end of the century. Id.</p> <p>These are not the estimates of “environmentalists.” This is the scientific consensus accepted both in the U.S. and around the world.</p> <p>The situation has recently taken an even more dire turn for the worse. Both 2014 and 2015 set global records for the hottest year ever. Scientists are all but certain that 2016 will break these records as well. According to NOAA, every month for the last 14 in a row have set global monthly temperature records. It is possible, that climate</p>	<p>not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity development may occur. Additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted.</p>

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		<p>change has entered a new accelerating state.</p> <p>The burning of coal, oil, and gas is the principle source of the largest contributor to global warming, carbon dioxide. Id.; see also AR5 summary at 13. At this time, approximately 25% of the carbon dioxide from fossil fuels produced in the U.S. comes from public lands leases. Ex. 8, Greenhouse Gas Emissions from Fossil Energy Extracted from Federal Lands and Waters, Stratus Consulting (February 1, 2012) at 15; see also, Ex. 9, Sales of Fossil Fuels Produced from Federal and Indian Lands – FY 2003 through FY 2014, U.S. Energy Information Administration (June 2015) at 2. Fossil fuels extracted from public lands release more than one and one-half billion metric tons of carbon dioxide equivalent per year. Id. at 12. That is the equivalent of more than 31 million passenger cars’ annual climate pollution, just from producing and burning fossil fuels from our public lands alone. Greenhouse Gas Equivalencies Calculator, U.S. Environmental Protection Agency at http://www.epa.gov/cleanenergy/energy-resources/calculator.html (last checked July, 9 2015).</p> <p>BLM manages federal mineral rights, including the leasing and approval of extraction of public lands fossil fuels, on all federal lands. Therefore, BLM decision makers play a critical role in determining how much more climate pollution the U.S. will emit to the atmosphere, the extent that that pollution will exacerbate global warming,</p>	

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		<p>and the extent that society and future generations will have to bear the myriad related social costs of those decisions.</p> <p>Global warming is exacting costs on society in numerous ways. Agricultural productivity, including crops, livestock, and fisheries have been negatively impacted by global warming. National Climate Assessment – Overview. This has resulted from extreme weather events, changes in temperature and precipitation, and increasing pressure from pests and pathogens. Id. Both water quality and water quantity are being affected by global warming. Id. The degradation has resulted from changes in snowpack, extreme weather events, coastal flooding affecting aquifers, and from changes in temperature and precipitation. Id. Heat-related deaths and illnesses have grown and are growing. Id. Impacts to forest resources from increased forest fires and the resulting impacts to air quality put additional costs on society. Id. A wide variety of critical ecosystem functions are degraded by global warming, including habitat for fish and wildlife, drinking water storage, soils, and coastal barriers. Id. Carbon dioxide pollution is also responsible for increasing ocean acidification. This list represents only a subset of the social costs of carbon pollution from burning fossil fuels extracted from our public lands. Nonetheless, “[l]ower emissions of heat-trapping gases and particles mean less future warming and less-severe impacts; higher emissions mean more warming and more severe impacts.” Id.</p>	

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		<p>BLM decision makers must consider the social cost of carbon from all proposed land management projects.</p> <p>The requirement to analyze the social cost of carbon is supported by the general requirements of the National Environmental Policy Act (“NEPA”) and specifically supported in federal case law. NEPA requires agencies to take a “hard look” at the consequences of proposed agency actions. 42 U.S.C. § 4321 et seq.; <i>Morris v. U.S. Nuclear Regulatory Commission</i>, 598 F.3d 677, 681 (10th Cir. 2010). Consequences that must be considered include direct, indirect, and cumulative consequences. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8. A cumulative impact is the “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” 40 C.F.R. § 1508.7. Analysis of site- specific impacts must take place at the lease stage and cannot merely be deferred until after receiving APDs to drill. See <i>New Mexico ex rel. Richardson v. Bureau of Land Management</i>, 565 F.3d 683, 717-18 (10th Cir. 2009); <i>Conner v. Burford</i>, 848 F.2d 1441 (9th Cir. 1988); <i>Bob Marshall Alliance v. Hodel</i>, 852 F.2d 1223, 1227 (9th Cir. 1988). Any NEPA analysis of a fossil fuel development project that fails to use the government-wide protocol for assessing the costs to</p>	

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		<p>society of carbon emissions from the proposed action has failed to take the legally required “hard look.”</p> <p>Courts have ordered agencies to assess the social cost of carbon pollution, even before a federal protocol for such analysis was adopted. In 2008, the Ninth Circuit Court of Appeals ordered the National Highway Traffic Safety Administration (“NHTSA”) to include a monetized assessment of carbon emissions reductions in an EA prepared under NEPA. <i>Center for Biological Diversity v. National Highway Traffic Safety Administration</i>, 538 F.3d 1172, 1203 (9th Cir. 2008). NHTSA had proposed a rule setting corporate average fuel economy standards for light trucks. A number of states and public interest groups challenged the rule for, among other things, failing to monetize the benefits that would accrue from a decision that led to lower carbon dioxide emissions. NHTSA’s EA had monetized the employment and sales impacts of the proposed action. <i>Id.</i> at 1199. The agency argued, however, that valuing the costs of carbon emissions was too uncertain. <i>Id.</i> at 1200. The court found this argument to be arbitrary and capricious. <i>Id.</i> The court noted that while estimates of the value of carbon emissions reductions occupied a wide range of values, the correct value was certainly not zero. <i>Id.</i> It further noted that other benefits were monetized by the agency although also uncertain. <i>Id.</i> at 1202.</p> <p>More recently, a federal court has done likewise for a</p>	

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		<p>proposed coal lease modification. High Country Conservation Advocates v. U.S. Forest Service, 2014 WL 2922751 (D. Colo. 2014), Slip Op. at 3, citing 40 C.F.R. § 1502.23. That court began its analysis by recognizing that a monetary cost-benefit analysis is not universally required by NEPA. High Country Conservation Advocates v. U.S. USFS, ---F. Supp.2d---, 2014 WL 2922751 (D. Colo 2014), citing 40 C.F.R. § 1502.23. However, when an agency prepares a cost-benefit analysis, “it cannot be misleading.” Id. at 3 (citations omitted). The quantification of the social cost of carbon was never prepared. BLM cannot rely on the stated benefits of the project in the RMP to justify project approval while wholly ignoring the costs to society that will accrue through climate change. This, the High Country court explained, was arbitrary and capricious. At 3. Any such approval would be based on a NEPA analysis with misleading economic assumptions, an approach long disallowed by courts throughout the country. Id. at 19-20.</p> <p>The social cost of carbon will be significant whenever fossil fuel leasing, or mining, or drilling is proposed.</p> <p>According to the U.S. Environmental Protection Agency (“EPA”), the social cost of carbon is “an estimate of the economic damages associated with a small increase” in emissions. Ex. 10, Social Cost of Carbon, U.S. Environmental Protection Agency. “This dollar figure also represents the value of damages avoided for a small</p>	

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		<p>emission reduction.” Id. Thus, it would be incorrect to assert that the social cost of carbon cannot be calculated for a project that represents a tiny fraction of global or even a tiny fraction of U.S. emissions. Estimates of the social cost of carbon are designed to do exactly that. In fact, the social cost of carbon is generally expressed in terms of the costs tolled by emitting or the benefits realized by avoiding a single ton of carbon dioxide emissions.</p> <p>However, it is very likely that the social cost of carbon protocol actually underestimates the true damages exacted on society by carbon pollution. Id. citing the IPCC Fourth Assessment Report. In particular, damages related to social and political conflicts, weather variability, extreme weather, and declining growth rates are either ignored or underestimated. Ex. 11, Omitted Damages: What’s Missing from the Social Cost of Carbon, Peter Howard, the Cost of Carbon Project (March 13, 2014). In fact, more recent studies have reported significantly higher carbon costs. For instance, a report published last year found that current estimates for the social cost of carbon should be increased six times for a mid-range value of \$220 per ton. See Ex. 12, Moore, C.F. and B.D. Delvane, “Temperature impacts on economic growth warrant stringent mitigation policy,” Nature Climate Change (January 12, 2015) at 2. Thus, any application of the current social cost of carbon protocol is very likely a significant underestimate of the true cost of carbon pollution.</p>	

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		<p>Acknowledging the known tendency to underestimate costs, the federal government has been using its cost-benefit assessment tool since February 2010. See Ex. 13, Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis - Under Executive Order 12866 - Interagency Working Group on Social Cost of Carbon, United States Government (May 2013, Revised July 2015). In the last several years, the Departments of Agriculture, Energy, Transportation, and Housing and Urban Development and the Environmental Protection Agency and National Highway Traffic Safety Administration have all utilized the Social Cost of Carbon Protocol in public decision making documents.</p> <p>Although often utilized in the context of agency rulemakings, the protocol has been recommended for use and has been used in project-level decisions. For instance, the EPA recommended that an EIS prepared by the U.S. Department of State for the proposed Keystone XL oil pipeline include “an estimate of the ‘social cost of carbon’ associated with potential increases of GHG emissions.” Ex. 14, EPA, Comments on Supplemental Draft EIS for the Keystone XL Oil Pipeline (June 6, 2011). The BLM has also utilized the social cost of carbon protocol in the context of oil and gas leasing. In recent Environmental Assessments for oil and gas leasing, the agency estimated “the annual SCC [social cost of carbon] associated with</p>	

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		<p>potential development on lease sale parcels.” Ex. 15, BLM, “Environmental Assessment DOI-BLM-MT-C020-2014-0091-EA, Oil and Gas Lease Parcel, October 21, 2014 Sale” (May 19, 2014) at 76. In conducting its analysis, the BLM used a “3 percent average discount rate and year 2020 values,” presuming social costs of carbon to be \$46 per metric ton. Id. Based on its estimate of greenhouse gas emissions, the agency estimated total carbon costs to be “\$38,499 (in 2011 dollars).” Id.</p> <p>The U.S. Government Accountability Office reviewed the process employed to develop the federal government’s assessment of the social cost of carbon. Ex. 16, Regulatory Impact Analysis – Social Cost of Carbon Estimates (July 2014). The GAO found that the process employed to develop the 2013 social cost of carbon estimates “used consensus-based decision making,” “relied on existing academic literature and models,” and “took steps to disclose limitations and incorporate new information.” Id. In short, while the social cost of carbon protocol, like other economic models, provides only estimates and is subject to further updates as new information becomes available, the federal government’s social cost of carbon protocol is a legitimate tool for performing a thorough and honest assessment of both costs and benefits of proposed actions as required under NEPA.</p> <p>EPA lists the current social costs of carbon in the following format:</p>	

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		<p>Social Cost of CO2, 2015-2050 a (in 2007 Dollars per metric ton CO2)</p> <p>Source: Technical Support Document (PDF, 21 pp, 1 MB): Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 (May 2013, Revised July 2015)</p> <p>Discount Rate and Statistic</p> <table><tr><th>Year</th><th>5% Average</th><th>3% Average</th><th>2.5% Average</th><th>3% 95th percentile</th></tr><tr><td>2015</td><td>\$11</td><td>\$36</td><td>\$56</td><td>\$105</td></tr><tr><td>2020</td><td>\$12</td><td>\$42</td><td>\$62</td><td>\$123</td></tr><tr><td>2025</td><td>\$14</td><td>\$46</td><td>\$68</td><td>\$138</td></tr><tr><td>2030</td><td>\$16</td><td>\$50</td><td>\$73</td><td>\$152</td></tr><tr><td>2035</td><td>\$18</td><td>\$55</td><td>\$78</td><td>\$168</td></tr><tr><td>2040</td><td>\$21</td><td>\$60</td><td>\$84</td><td>\$183</td></tr><tr><td>2045</td><td>\$23</td><td>\$64</td><td>\$89</td><td>\$197</td></tr><tr><td>2050</td><td>\$26</td><td>\$69</td><td>\$95</td><td>\$212</td></tr></table> <p>a The SC-CO2 values are dollar-year and emissions-year specific. Ex. 10 at 3.</p> <p>As the table above makes clear, the social costs of carbon pollution are anything but trivial. For example, a project that released a mere 25,000 tons of carbon dioxide in 2025 would be responsible for costs to society, through global warming, of between \$375,000 and more than \$3.75</p>	Year	5% Average	3% Average	2.5% Average	3% 95th percentile	2015	\$11	\$36	\$56	\$105	2020	\$12	\$42	\$62	\$123	2025	\$14	\$46	\$68	\$138	2030	\$16	\$50	\$73	\$152	2035	\$18	\$55	\$78	\$168	2040	\$21	\$60	\$84	\$183	2045	\$23	\$64	\$89	\$197	2050	\$26	\$69	\$95	\$212	
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		<p>million for that year's emissions alone. And again, this is very likely an underestimate of true costs.</p> <p>If the economy returns to fast-paced growth and global warming impacts are currently foreseen and properly estimated, the higher discount rates, 5%, and the lower social cost of carbon estimates will be most appropriate. If the economy grows long-term at slower rates and global warming impacts are currently foreseen and properly estimated, the higher social cost of carbon figures, the 2.5 % column, will be better estimates. A middle discount rate value, 3%, for mid-range growth estimates is also available. If, on the other hand, global warming impacts are greater or more costly than current mid-range estimates, the social cost of carbon would be better estimated by the 95th percentile figures. That means that the lowest social cost of carbon numbers are best-case scenarios for both the economy and global warming impacts. The highest numbers are for mid-range economic projections and close to worst-case estimates for global warming impacts.</p> <p>A recently completed BLM APD EA provides an instructive example. See Ex. 17 -- Environmental Assessment for Anschutz State Federal APD's (March, 2016), DOI-BLM-CO- F02-2016-0014 EA at 37. There, a small 12-well project was estimated to emit about two million tons of CO₂e per year. If project emissions begin in 2020, those 12 wells will cost society an estimated \$92</p>	

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		<p>million per year at mid-range estimates. By the end of the estimated 25-year life of the project, costs will have risen to an estimated \$152 million per year. That amounts to \$3.8 billion over the life of the 12-well project. If costs are at the upper end of economists' projections, the numbers rise to the range \$400 million per year, or a staggering \$10 billion dollars over the life of the project. Clearly, if such numbers were provided to decision makers and to the public, different choices might well be made about whether to lease public land for drilling.</p>	
23	WEG	<p>BLM's NEPA documents for the February 2017 Oil and Gas Lease Parcel Sale violates NEPA</p> <p>BLM fails to draw the necessary connection between the proposed project and increased climate impacts and costs. BLM improperly declines to assess the impacts of climate change, promising to assess them at some unknown time in the future. This violates NEPA's hard look doctrine. Court's have made clear that the leasing stage is an appropriate time to assess impacts that will not be mitigated by lease stipulations, as carbon emissions surely will not. These EAs fail the hard look requirement. In addition, the project fails to take a hard look at climate impacts to society as contextualized in the social cost of carbon protocol.</p> <p>This project is one small piece resulting in tremendous cumulative impacts across the Department of the Interior</p>	<p>The preparation of this leasing EA was done in compliance with all Federal rules, regulations, and laws, and is in conformance with NEPA.</p> <p>This leasing EA does not authorize specific actions on the ground; actual projects are covered in subsequent project-level NEPA compliance documents.</p>

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		<p>fossil fuel leasing programs. Fossil fuels development on public lands and coastal waters results in more than one and one-half billion tons of carbon dioxide emissions per year. Using 2015 social cost of carbon values, the costs to society of the federal fossil fuel leasing program is between \$18 and \$177 billion per year. This same level of emissions in 20 years would incur costs from \$20 billion to more than a quarter of a trillion dollars per year, depending on the growth of the economy and the intensity of global warming impacts at that time. These costs, of course, do not include costs from air quality issues like smog and mercury emissions, do not include lost opportunity costs from lost recreation, or costs from direct degradation of ecosystem services. Recall also, that it is very likely that these numbers represent an underestimate of the true costs to society from global warming.</p> <p>These numbers, while shocking, do no more than reiterate what scientists have been telling us for years: extraction of fossil fuels are costing our society much more than they are providing in benefits. Of course numbers of such an alarming magnitude do not result from the approval of any single project. Instead, they represent the incessant accumulation of costs that result from BLM approving project after project while refusing to acknowledge that those projects have unspoken cumulative impacts on society, both individually and in the aggregate, that will continue to plague our country for many generations, in fact, for millenia. BLM must address the social costs of</p>	

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		carbon that are likely to result from these projects.	
24	WEG	<p>BLM ignores the Department of the Interior’s October 2015 Landscape-Scale Mitigation Policy, 600 DM 6</p> <p>The new Departmental Landscape-Scale Mitigation policy applies to BLM. 600 DM 6.2. Its purpose is to “avoid, minimize, and compensate for impacts to Department-managed resources.” 600 DM 6.1. The BLM is required to apply a “no net loss” policy to agency resources, including those impacted by oil and gas leasing and development. 600 DM 6.5. BLM is empowered to decline authorization of projects where mitigation and compensation cannot be achieved. 600 DM 6.6. Specifically, BLM is required to “[i]dentify and promote mitigation measures that help address the effects of climate change” and to consider “greenhouse gas emissions in design, analysis, and development of alternatives.” Id. These policies and principles should be employed “when developing and approving strategies and plans, reviewing projects, and issuing permits.” 600 DM 6.8.</p> <p>BLM has not undertaken to implement any aspect of this policy in the project at hand.</p>	<p>Absent a definitive development proposal for the lease it is not possible to conduct a more specific impact and/or cumulative effects analysis and as stated in Section 3.1 of the EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity development may occur. As further stated in Section 3.1 of the EA, “additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted, including cumulative impacts from past and reasonably foreseeable future actions.</p> <p>The identification and application of landscape scale mitigation, including adaptive management, may be developed during the site-specific NEPA analysis that would be required to address any specific post-lease exploration or development actions that are proposed and could include additional measures to mitigate identified direct, indirect or cumulative impacts resulting from any surface disturbing or disruptive proposal should the subject lands be offered, sold and development actually proposed. Until development of the tracts offered for lease is actually proposed and permits applications have been received, analysis of the Landscape Scale Mitigation Policy’s guidance to identify and propose mitigation measures is not appropriate.</p>
25	WEG	<p>The EA must analyze impacts from fracking wastewater, including the possibility of earthquakes produced by underground injection</p>	<p>Since specific lease development operations cannot be reasonably foreseen at the leasing stage, any site specific impacts cannot realistically be analyzed in more detail at this time. Hydraulic</p>

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		<p>The EAs largely ignore wastewater created by oil and gas extraction. This itself renders the EAs inoperable. Despite BLM ignoring the issue however, it is well known that much fracking wastewater is injected into underground wells. That practice is known or suspected of causing earthquakes in Kansas, Oklahoma, Texas, Ohio, Pennsylvania, California, and Canada and has been restricted for just that reason in some of those areas. BLM must, in a supplemental analysis, analyze the likelihood of such impacts before they occur and require mitigation before this project can proceed.</p> <p>Saline, produced water from wells, when injected into deeper sedimentary formations, appears to lubricate active fault lines. Ex. 18, Oklahoma's recent earthquakes and saltwater disposal, Science Advances (June 18, 2015). In some areas with previously rare earthquake activity, rates have increased ten-fold. It appears that the likelihood of induced seismicity is directly related to the rate of injection. High-rate injection is associated with the increase in U.S. mid-continent seismicity, M. Weingarten, et al., Science (June 19, 2015) at http://www.sciencemag.org/content/348/6241/1336; see also Ex. 19, Potential Injection- Induced Seismicity Associated with Oil and Gas Development, States First (2015).</p> <p>The EAs do not attempt to analyze the degree or</p>	<p>Fracturing is a specific development scenario. Should the parcels be sold and development proposed, an analysis of hydraulic fracturing (if proposed) would be contemplated and the impacts to resources affected will also be analyzed under that site specific NEPA document.</p> <p>Since specific lease development operations cannot be reasonably foreseen at the leasing stage, any site specific impacts cannot realistically be analyzed in more detail at this time. At the time of APD proposal, should the parcels be sold and development proposed, an analysis of these resources will be completed.</p>

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		frequency of waste water injection. Likewise, no stipulations on such practices are included in the proposed leases. This possible impact must be studied and appropriate stipulations included to prevent these impacts.	
26	WEG	<p>Conclusion</p> <p>Thank you for the opportunity to provide comments on this project. For the reasons given above, BLM should withdraw its EA and either supplement it or forgo leasing altogether.</p> <p>It is now clear that the extraction of fossil fuels from public lands is inconsistent with a livable world in the future. The sooner BLM transitions away from this activity, the better it will be for the land it manages and for the American people.</p> <p>Sincerely, Timothy J.Ream, Climate & Energy Campaign Director, WildEarth Guardians, PO Box 641672, San Francisco, CA 94164 541-531-8541 tream@wildearthguardians.org</p>	Thank you for your comments.
27	Chris Lish	<p>Christopher Lish San Rafael, CA lishchris@yahoo.com</p>	Thank you for your interest. Your email was received after the comment closing date of August 24, 2016, and will not be responded to, but will be kept in the administrative record.

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			<p>Information about all lease sales and comment periods is available to the public through the BLM website: http://www.blm.gov/wy/st/en/programs/energy/Oil_and_Gas/Leasing.html</p> <p>The 30-day public comment period for Version 1 of the Wind River/Bighorn Basin District EA for the February 2017 Competitive Oil and Gas Lease Sale (DOI-BLM-WY-R000-2016-0002-EA) began July 25, 2016, and closed August 24, 2016. The 30-day public comment period is established in Washington Office IM 2010-117 <i>Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews</i>. Comments received after the close of the public comment period will be handled in accordance with BLM’s NEPA Handbook (H-1790-1), which states that the Authorized Officer: ”is not required to respond to comments that are not substantive or comments that are received after the close of the comment period, but you may choose to reply.”</p>
28	WR/BBD	No other comments were received after the closing date.	